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Title 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

SUBCHAPTER G-DETERMINATION OF PROPORTIONATE SHARES

[Sugar Determination 850.99, as Amended, Supp. 3]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Michigan Proportionate Share Areas and Farm Proportionate Shares for the 1959 Crop

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1959 Crop (23 F.R. 7799; 24 F.R. 84); 24 F.R. 9707), the Agricultural Stabilization and Conservation Michigan State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 78,185 acres established for Michigan by the determination. Copies of these bases and procedures are available for public inspection at the office of such committee at the Cahill Building, 200 North Capitol Avenue, Lansing, Michigan, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Michigan. These bases and procedures incorporate the following:

§ 850.102 Michigan.

(a) Proportionate share areas. Michigan shall be divided into four proportionate share areas comprising the parts of the State included in the factory districts of the Michigan Sugar Company, Monitor Sugar Division of Robert Gage Coal Co., Northern Ohio Sugar Co., and Buckeye Sugars, Inc. These areas shall be designated Michigan Area, Monitor Area, Northern Ohio Area, and Buckeye Area, respectively. Area acreage allotments shall be computed by prorating the State allocation of 78,185 acres to these areas by using as a base acreage for each the larger of (1) the acreage for the area computed by prorating 78,185

acres to the areas, using as a base for each area the larger of the 1958 allotment or the result of prorating the 1958 State allocation among the areas on the basis of 1955–57 average accredited acreages, or (2) 90 percent of the 1958 area allotment as adjusted by any special allocation from the National Reserve (includes 216 acres for the Buckeye Area and 264 acres for the Monitor Area). This results in the following area acreage allocations: Michigan Area—54,983 acres; Monitor Area—20,084 acres; Northern Ohio Area—2,237 acres; and Buckeye Area—881 acres.

(b) Set-asides of acreage. Set-asides of acreage shall be made from area allotments as follows: Michigan Area—550 acres for new producers, 550 acres for appeals, and 3,299 acres for adjustments in initial shares; Monitor Area—201 acres for new producers, 201 acres for appeals, and 0 acres for adjustments in initial shares; Northern Ohio Area—22 acres for new producers, 22 acres for appeals, and 179 acres for adjustments in initial shares; and Buckeye Area—9 acres for new producers, 9 acres for appeals, and 50 acres for adjustments in initial shares.

(c) Requests for proportionate shares. A request for each farm proportionate share shall be filed at the local ASC County Office on Form SU-100, Request for Sugar Beet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.99. If a preliminary request for a tentative farm proportionate share is filed, as provided in § 850.99, a fully completed Form SU-100 shall be filed by April 14, 1959. However, requests for proportionate shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of absence, illness or other reasons beyond his control.

(d) Establishment of individual proportionate shares for old-producer farms—(1) Farm bases. For each old-producer farm, a farm base shall be determined by dividing by four the total accredited acreage of sugar beets for the farm during the crop years 1955 through

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1958, except that for any such farm for which a new-producer share was established for the 1956, 1957 or 1958 crop, the farm base shall be the larger of the 1955–58 average accredited acreage, or the 1958 accredited acreage for the farm but not in excess of the 1958 established share for the farm.

(2) Initial proportionate shares. For each proportionate share area, the total of individual farm bases for old-producer farms, as established pursuant to paragraph (d) of this section, is less than the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial proportionate shares shall be established from the farm bases in each proportionate share area as follows: For farms for which respective requested acreages are equal to or less than their farm bases. the initial shares shall coincide with requested acreages; and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph. The proration factor for each area shall be as follows: Michigan Area—1.106; Monitor Area—1.00; Northern Ohio Area—1.00; and Buckeye Area—1.00.

(3) Adjustments in initial shares. Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(e) Establishment of individual proportionate shares for new-producer farms. Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established in an equitable manner for farms to be operated during the 1959crop year by new producers (as defined in § 850.99). The State Committee has determined that 10 acres for the Michigan and Monitor Areas and 5 acres for the Buckeye and Northern Ohio Areas are the minimum acreages which are economically feasible to plant as newproducer farm shares in the several areas. In determining whether a farm for which a request is filed for a newproducer share may qualify for such a share, and to assist in establishing newproducer shares which are fair and equitable as to relative size among qualified farms, the State Committee shall take into consideration availability and suitability of land, adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities. Preference shall be given by establishing shares (not limited to the minimum as established above) for farms whose operators have had significant previous sugar beet production experience, and minimum newproducer shares shall be established for all well-qualified applicants, except in cases where smaller shares were requested.

(f) Adjustments under appeals. Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of § 850.99, applicable to appeals.

(g) Adjustments because of unused acreage. Any acreage made available during the 1959-crop season by underplanting or failure to plant proportionate share acreage on farms in any county shall be reported to the ASC State Committee. Acreages so reported from counties in an area, together with available acreages from unused set-asides or from other sources of unused acreage, shall be prorated insofar as practicable on the basis of total established shares to the various beet sugar factory districts of the area wherein additional acreage may be used. In each such district, the acreage shall be prorated insofar as practicable to farms on which additional acreage may be utilized. Any such acreage remaining unused in the district shall then be prorated by the ASC State Committee to other districts in the area with farms capable of utilizing more proportionate share acreage, and if such acreage is not utilized within the area, it may be made available by such Committee to other areas in the State wherein additional acreage may be used.

(h) Notification of farm operators. The farm operator shall be notified concerning the proportionate share established for his farm on form SU-103, Notice of Farm Proportionate Share-1959 Sugar Beet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted proportionate share on a form SU-103-A or other similar written notice. For each tentative proportionate share which is established, the person filing the request for such share shall be notified on a form SU-103-B specifying that such tentative share does not constitute a farm proportionate share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) Redetermination of proportionate share. The proportionate share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.99.

(j) Determination provisions prevail. The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of \$850.99.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Michigan State Committee for determining farm proportionate shares in Michigan in accordance with the determination of proportionate shares for the 1959 crop of sugar beets, as issued by the Secretary of Agriculture.

Michigan is divided into four areas. For the preceding four crops the State was a single area. Advisory committees, including grower and processor representatives, are utilized. In establishing proportionate shares for old-producer farms, the factors of "past production" and "ability to produce" sugar beets are measured by four-year average accredited acreages for the crop years 1955-58, except that a more favorable formula is applied to such farms which were new-producer farms in 1956-58.

The procedure for establishing farm shares for new producers meets the related requirements of § 850.99. Tenacre shares are determined to be minimum economic units for new-producer farms in the Michigan and Monitor Areas and five-acre shares are determined to be minimum economic units in the Northern Ohio and Buckeye Areas.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals, are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory. (Sec. 403, 61 Stat. 932; 7 U.S.C. Sup. 1153. Interprets or applies secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. Sup. 1131, 1132)

Chairman, Agricultural Stabilization and Conservation Michigan State Committee.

NOVEMBER 23, 1959.

Approved: December 29, 1959.

LAWRENCE MYERS,
Director, Sugar Division, Commodity Stabilization Service.

[F.R. Doc. 60-407; Filed, Jan. 14, 1960; 8:53 a.m.]

[Sugar Determination 850.99, as Amended Supp. 8]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

New Mexico Farm Proportionate Shares for the 1959 Crop

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1959 Crop (23 F.R. 7799; 24 F.R. 84; 24 F.R. 9707), the Agricultural Stabilization and Conservation New Mexico State Committee has issued the bases and procedures for establishing individual farm proportionate shares from the allocation of 776 acres established for New Mexico by the determination. Copies of these bases and procedures are available for public inspection at

the office of such committee at 1015 Tijeras Avenue NW., Albuquerque, New Mexico, and at the office of the Agricultural Stabilization and Conservation Committee in Estancia, Torrance County, New Mexico. These bases and procedures incorporate the following:

§ 850.107 New Mexico.

(a) Proportionate share area. In the establishment of individual farm proportionate shares, the State shall be deemed to be one allotment area.

(b) Set-asides of acreage. Set-asides of acreage shall be made from the State acreage allocation as follows: 100 acres for new producers, 8 acres for appeals, and 146 acres for adjustments in initial

(c) Requests for proportionate shares. A request for each farm proportionate share shall be filed at the local ASC County Office on Form SU-100, Request for Sugar Beet Proportionate Share, under the conditions, and on or before the closing date, for such filing as provided in § 850.99. If a preliminary request for a tentative farm proportionate share is filed as provided in § 850.99, a fullycompleted Form SU-100 shall be filed by April 14, 1959. However, requests for proportionate shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed Form SU-100 by such dates because of absence, illness or other reasons beyond his control.

(d) Establishment of individual proportionate shares for old-producer farms—(1) Farm bases. For each old-producer farm, a farm base shall be determined by dividing by four the total accredited acreage of sugar beets for the farm during the crop years 1955 through 1958, except that for any such farm for which a new-producer share was established for the 1956, 1957 or 1958 crop, the farm base shall be the larger of the 1958 accredited acreage or the 1958 accredited acreage for the farm but not in excess of the 1958 established

share for the farm.

(2) Initial proportionate shares. The total of individual farm bases for oldproducer farms in the State, as established pursuant to this paragraph, is less than the area allotment minus the setasides of acreage established under paragraph (b) of this section. Accordingly, initial proportionate shares shall be established from farm bases as follows: For farms for which respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with the requested acreages; and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph. The proration factor for the area shall be 1.0114.

(3) Adjustments in initial shares. Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages, adjustments shall be

made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(e) Establishment of individual proportionate shares for new-producer farms. Within the acreage set aside for new producers, proportionate shares shall be established in an equitable manner for farms to be operated during the 1959-crop year by new producers (as defined in § 850.99). The State Committee has determined that a 10.0-acre share is the minimum acreage which is economically feasible to plant as a new-producer farm share. In determining whether a farm for which a request is filed for a new-producer share may qualify for such a share, and to assist in establishing new-producer shares which are fair and equitable as to relative size among qualified farms, the State Committee shall take into consideration availability and suitability of land, availability of irrigation water (where irrigation is used), adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities. Shares shall be established for all well-qualified applicants, with 10.0 acres as the minimum share.

(f) Adjustments under appeals. Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of § 850.99, applicable to appeals.

(g) Adjustments because of unused acreage. Any acreage made available during the 1959-crop season by underplanting or failure to plant proportionate share acreage, together with acreage from unused set-asides of acreage or from other sources of unused acreage, shall be made available to increase proportionate shares for other farms in the area having ability to utilize additional acreage.

(h) Notification of farm operators. The farm operator shall be notified concerning the proportionate share established for his farm on Form SU-103, Notice of Farm Proportionate Share--1959 Sugar Beet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals, or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted proportionate share on a Form SU-103-A or other similar written notice. For each tentative proportionate share which is established, the person filing the request for such share shall be notified on a Form SU-103-B specifying that such tentative share does not constitute a farm proportionate share for the purpose of payment under the Sugar Act of 1948, as amended.

(1) Redetermination of proportionate share. The proportionate share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.99.

(j) Determination provisions prevail. The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.99.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation New Mexico State Committee for determining farm proportionate shares in New Mexico in accordance with the determination of proportionate shares for the 1959 crop of sugar beets, as issued by the Secretary of Agriculture.

Informal relationships are maintained with grower and processor representatives. In establishing proportionate shares for old producers, the factors of "past production" and "ability to produce" sugar beets are measured by four-year average accredited acreages for the crop years 1955-58, except that a more favorable formula is applied to such farms which were new-producer farms in 1956-58. The procedure for establishing farm shares for new producers meets the related requirements of § 850.99.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. Sup. 1153. Interprets or applies secs. 301, 302, 61 Stat. 929, 930 as amended; 7 U.S.C. Sup. 1131, 1132)

CLAUDE B. EDMONDS, Chairman, Agriculture Stabilization and Conservation New Mexico State Committee.

NOVEMBER 20, 1959.

Approved: December 29, 1959.

Lawrence Myers,
Director, Sugar Division, Commodity Stabilization Service.

[F.R. Doc. 60-408; Filed, Jan. 14, 1960; 8:53 a.m.]

[Sugar Determination 850.99, as Amended, Supp. 12]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Wyoming Proportionate Share Area's and Farm Proportionate Shares for the 1959 Crop

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1959 Crop (23 F.R. 7799; 24 F.R. 84; 24 F.R. 9707), the Agricultural Stabilization and Conservation Wyoming State

Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 38,552 acres established for Wyoming by the determination. Copies of these bases and procedures are available for public inspection at the office of such Committee at 345 East Second Street, Casper, Wyoming, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Wyoming. These bases and procedures incorporate the following:

§ 850.111 Wyoming.

(a) Proportionate share areas. Wyoming shall be divided into two proportionate share areas as served by beet sugar companies. These areas shall be designated Great Western Area and Holly Area, respectively. Acreage allotments for these areas shall be computed by prorating the State allocation of 38.552 acres to the areas, using as the base for each area the larger of the 1958 area allocation or the average accredited acres for the years 1955 through 1957 factored to the 1958 State allocation of 37,745 acres. This results in the following area acreage allocations: Great Western-10,734 acres and Holly Area-27,818 acres.

(b) Set-aside of acreage. Set-asides of acreage shall be made from area allotments as follows: Great Western area—107 acres for new producers, 107 acres for appeals, and 770.4 acres for adjustments in initial shares, and Holly Area—278 acres for new producers, 278 acres of appeals, and 770.4 acres for adjustments in initial shares.

(c) Requests for proportionate shares. A request for each farm proportionate share shall be filed at the local ASC County Office on Form SU-100, Request for Sugar Beet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.99. If a preliminary request for a tentative farm proportionate share is filed, as provided in § 850.99, a fully-completed form SU-100 shall be filed by March 31, 1959. However, requests for proportionate shares may be accepted after such dates and shares may be established if the State Committee determines that in any such case the farm operator was prevented from filing a completed form SU-100 by such dates because of absence, illness or other reasons beyond his control.

(d) Establishment of individual proportionate shares for old-producer farms—(1) Farm bases. For each old-producer farm, a farm base shall be determined by dividing by three the total accredited acreage of sugar beets for the farm during the crop years 1955 through 1957, except that for any such farm for which a new-producer share was established for the 1956, 1957 or 1958 crop, the farm base shall be the larger of the 1955–57 average accredited acreage, or the 1958 accredited acreage for the farm but not in excess of the 1958 established share for the farm.

(2) Initial proportionate shares. For the Holly area, the total of individual farm bases for old-producer farms, as established pursuant to this paragraph. is less than the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial proportionate shares shall be established from the farm bases in the Holly area as follows: For farms for which respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with requested acreages; and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph. The proration factor for the Holly area shall be 1.0700. For the Great Western area, the total of farm bases for oldproducer farms as established pursuant to this paragraph exceeds the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial proportionate shares shall be established from the farm bases in the Great Western area by prorating to the farms in accordance with their respective bases, but not in excess of their requests, the area allotment less such set-aside. The pro-ration factor for the Great Western area shall be 0.94166.

(3) Adjustments in initial shares. Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, crop rotation, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(e) Establishment of individual.pro-portionate shares for new-producer farms. Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established in an equitable manner for farms to be operated during the 1959crop year by new producers (as defined in § 850.99). The State Committee has determined that a 10.0 acre share is the minimum acreage which is economically feasible to plant as a new-producer farm share in the Holly area and 8.0 acres is such minimum acreage in the Great Western area. The acreage available for establishing new-producer shares in each area shall be allotted in minimum economic units to counties within the area on the basis of total farm bases of old-producer farms, as established pursuant to paragraph (d) (1) of this section. In determining whether a farm for which a request is filed for a new-producer share may

qualify for such a share, and to assist in establishing new-producer shares which are fair and equitable as to relative size among qualified farms, the State Committee shall take into consideration availability and suitability of land, availability of irrigation water, adequacy of drainage, the production experience of the operator, and the availability of production and marketing facilities. To the extent of acreage available within each county (except Park County) minimum new-producer shares shall be established for the applicants having the total highest ratings under the aforestated considerations. If there is insufficient acreage to establish shares in minimum economic units for all well-qualified applicants in Park County, selection in such county shall be made by lot from among all such applicants.

(f) Adjustments under appeals. Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of § 850.99, applicable to appeals.

(g) Adjustments because of unused acreage. Any acreage released by producers prior to March 20, 1959, shall be used by ASC County Committees in increasing small proportionate shares in the respective counties so as to promote the more efficient operation of farms. In increasing such small-producer shares, the County Committee shall take into consideration the size of beet operations for small farms in the area, the type of operations in the area, and other pertinent factors relating to efficient sugar beet production. Any other acreage made available during the 1959crop season by underplanting or failure to plant proportionate share acreage on farms in any county, together with acreages prorated to the county by the ASC State Committee from unused set-asides of acreage or from other sources of un-used acreage, shall first be made available to increase proportionate shares for other farms in such county having ability to utilize additional acreage. Any such acreage remaining unused in the county shall then be prorated by the ASC State Committee to other counties in the area with farms capable of utilizing more proportionate share acreage, and if such acreage is not utilized within such counties, it may be made available to the other areas in the State wherein additional acreage may be used.

(h) Notification of farm operators. The farm operator shall be notified concerning the proportionate share established for his farm on form SU-103, Notice of Farm Proportionate Share—1959 Sugar Beet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted proportionate share on a form

SU-103-A or other similar written notice. For each tentative proportionate share which is established, the person filing the request for such share shall be notified on a form SU-103-B specifying that such tentative share does not constitute a farm proportionate share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) Redetermination of proportionate share. The proportionate share determined for any farm which is subdivided into, combined with, or becomes a part of another farm or farms shall be redetermined as provided in § 850.99.

(j) Determination provisions prevail. The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of \$850.99.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Wyoming State Committee for determining farm proportionate shares in Wyoming in accordance with the determination of proportionate shares for the 1959 crop of sugar beets, as issued by the Secretary of Agriculture.

Wyoming is divided into two areas, as has been done for the preceding two crops. Advisory committees, including grower and processor representatives, are utilized. In establishing proportionate shares for old-producer farms, the factors of "past production" and "ability to produce" sugar beets are measured by three-year average accredited acreages for the crop years 1955-57, except that a more favorable formula is applied to such farms which were new-producer farms in 1956-58.

The procedure for establishing farm shares for new producers meets the related requirements of § 850.99. Ten-acre shares in the Holly area and eight-acre shares in the Great Western area, are determined to be minimum economic units for new-producer farms.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals, are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932; 7 U.S.C. Sup. 1153. Interprets or applies secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. Sup. 1131, 1132)

H. L. JOLLEY,
- Chairman, Agricultural Stabilization and Conservation Wyoming State Committee.

DECEMBER 15, 1959.

Approved: December 29, 1959.

LAWRENCE MYERS,
Director, Sugar Division, Commodity Stabilization Service.

[F.R. Doc. 60-409; Filed, Jan. 14, 1960; 8:53 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency
SUBCHAPTER A—CIVIL AIR REGULATIONS
[Reg. Docket No. 104; Amdt. 60–16]

PART 60—AIR TRAFFIC RULES Right-of-Way—Aerial Refueling Operations

On August 27, 1959, Draft Release 59-13 (24 F.R. 7164) gave notice that the Federal Aviation Agency proposed to revise § 60.14(b) of Part 60 of the Civil Air Regulations. In essence, the proposed rule provides that other aircraft be required to give way to aircraft involved in refueling in the same manner as is currently required in the case of aircraft engaged in the towing process. General agreement that the proposed rule will provide an additional measure of safety is apparent from comments received pursuant to the draft release.

The comment received from the Air Line Pilots Association stated, in part, "The air line pilots realize that during refueling operations that two or more aircraft involved are handicapped from maneuvering, and further that the airplanes being refueled are critically short of fuel, which increases the necessity for refueling operations to continue without interruption. Nevertheless, we are concerned about trying to regulate safety by requiring "right-of-way" to this type of airplane operation which is being done at such high speed that the "see-and-be-seen" prinicipal of avoiding collision is not adequate to assure safety." In addition, the Air Line Pilots Association (ALPA) suggests that procedures should be established whereby air traffic is diverted to avoid active refueling areas; that altitude or radar separation should be provided between refueling aircraft and all other aircraft; and that aerial refueling should be conducted at the higher flight levels, provided that both tanker and receiver aircraft are turbine driven.

With regard to the comment of the ALPA with respect to the adequacy of the "see-and-be-seen" concept for collision avoidance, the intermediate altitude refueling operation is conducted at speeds varying from 190 to 220 knots. The high altitude refueling is conducted at speeds of from 255 to 300 knots. In fact, the reduction in the air speed of the receiving aircraft is one of the primary reasons for the loss of maneuverability.

The Bureau of Air Traffic Management of the Federal Aviation Agency, recognizing the problems associated with aerial refueling, has established procedures whereby IFR air traffic is diverted around active high altitude refueling areas unless altitude or radar separation is provided between the refueling aircraft and IFR aircraft under air traffic control jurisdiction. The locations of high altitude refueling areas were first published in the Airman's

Guide on September 1, 1959. Although initial emphasis with respect to refueling procedures has been directed to high altitude refueling operations, similar procedures are currently under development for application to intermediate altitude refueling activities. The intent of the ALPA comment that refueling should be conducted at high altitude will be satisfied as the non-jet tanker is gradually being eliminated from the military inventory.

Interested persons have been afforded an opportunity to participate in the making of this amendment (24 F.R. 7164), and due consideration has been given to all relevant matter presented. The principles contained in Draft Release 59–13 have been endorsed by comments received and, since suggested action is, to a great extent, either implemented or under development, it is concluded that the amendment should be adopted as proposed.

In consideration of the foregoing, § 60.14(b) of Part 60 of the Civil Air. Regulations (14 CFR Part 60) is hereby amended to read as follows:

(b) Converging. Aircraft converging shall give way to other aircraft of a different category in the following order: Airplanes and rotocraft shall give way to airships, gliders, and balloons; airships shall give way to gliders and balloons, gliders shall give way to balloons. When two or more aircraft of the same category are converging at approximately the same altitude, each aircraft shall give way to the other which is on its right. In any event, mechanically driven aircraft shall give way to aircraft which are seen to be towing or refueling other aircraft;

Note: In effect, an aircraft will give way to another of a different category which is less maneuverable and is unable to take as effective action to avoid collision. For this reason, aircraft towing or refueling others are given the right-of-way.

(Secs. 313(a), 307(c); 72 Stat. 752, 749, 49 U.S.C. 1354, 1348)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-367; Filed, Jan. 14, 1960; 8:45 a.m.]

Chapter III—Federal Aviation Agency
SUBCHAPTER C—AIRCRAFT REGULATIONS
[Reg. Docket No. 120; Amdt. 75]

PART 507—AIRWORTHINESS DIRECTIVES

Boeing 707 Inboard Aileron Balance Panel End Seals

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive correcting the possibility of loosening of inboard aileron balance panel end seals on certain Boeing 707 aircraft was published in 24 F.R. 7552.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Evaluation of the comments received from industry indicate that a relaxation may be made in accomplishment of modifications required in the proposal. Accordingly, the proposed directive has been revised to reflect new compliance requirements for inspections until corrective modifications are made. Since this is a relaxation, republication in the FEDERAL REGISTER for further comment is considered unnecessary.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

BOFING. Applies to the following 707-100 Series aircraft only: Serial Numbers 17586 through 17591, 17609, 17610, 17628 through 17641, 17659 through 17666, 17925, 17926.

Compliance required as indicated.

Service experience has shown that it is possible for the inboard alleron balance panel end seals to loosen and restrict movement of the aileron on some Boeing 707 aircraft. Therefore, certain inspection(s) or modification(s) are to be accomplished.

PART I. Within the next 200 hours time in

service and at each 200 hours time in service thereafter until Part II of this AD is accomplished, conduct the following inspection(s).

- (a) Remove the inboard aileron balance access panels on the wing lower surfaces.
- (b) Inspect the fasteners retaining the felt end seals P/N 5-87140-8 and P/N 3-94377-1 at each end of the balance panel hinge and retorque as necessary.

- (c) Reinstall access panels.

 PART II. The Part I inspections may be discontinued after incorporating the following modification(s).
- (a) Remove the inboard alleron balance bay access panels on the wing lower surfaces.
- (b) Delete felt end seals 5-87140-8 and washer BAC-W10P-69S (8 places) and retaining screw NAS 514P-632-8, washer AN960-6 and nut (16 places). Open holes
- are satisfactory.

 (c) Delete felt end seals 3-94377-1 (8
- (d) Inspect and replace any damaged nuts and nut plates from which bolts were removed.
- (e) Delete spacer washer AN960D10 (8 places).
- (f) Reassemble using shorter bolts to compensate for parts deleted or modified.
- (g) Check for proper operation of inboard

(h) Reinstall access panels.

(Boeing Service Bulletin No. 245 pertains to this same subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 8, 1960.

> E. R. QUESADA, Administrator.

[FiR. Doc. 60-361; Filed, Jan. 14, 1960; 8:45 a.m.]

[Reg. Docket No. 212; Amdt. 76]

PART 507—AIRWORTHINESS **DIRECTIVES**

Boeing 707 Series Aircraft

Failure of the oleo outer cylinder on Boeing 707 aircraft resulting in an un-

safe condition necessitates inspection for cracks and, if cracks are found, rework to be accomplished.

In view of the foregoing, the Administrator found that a situation existed requiring immediate action in the interest of safety, that notice and public procedure thereon were impracticable and contrary to the public interest, and that good cause existed for taking immediate corrective action. Accordingly, an airworthiness directive was adopted on December 12, 1959, and made effective immediately as to all known operators of Boeing 707 series aircraft by individual telegrams dated December 12, 1959. It is hereby published as an amendment to § 507.10(a) (14 CFR Part 507) and shall become effective upon the date of its publication in the FEDERAL REGISTER as to all other persons:

BOEING. Applies to all Model 707 Series aircraft with more than 500 hours time in service.

Compliance required as indicated.

Due to failure of oleo outer cylinder in area of upper torsion link lugs, the following inspections are required:

(a) The following must be accomplished daily on Model 707-100-Series aircraft and every 48 calendar hours on model 707-300 Series aircraft.

(1) With the main landing gear in a normal no torsion load condition, clean and remove paint from outer cylinder surface within three inches of the outer cylinder torsion link lugs, excluding the area between lugs, with perchloroethylene or equivalent.

(2) Place the airplane in tightest right turn possible without disconnecting nose gear torsion links. White under torsional load inspect the cleaned cylinder surface adjacent to the right lug of both main landing gears for evidence of cracks using a 10-power glass.

(3) Repeat (a) (2) above except turn airplane to left and inspect left lug area.

(b) Unless accomplished within the last 65 hours time in service on Model 707-100-Series, or 130 hours time in service on Model 707-300-Series aircraft, the following must be accomplished at the next stop at a maintenance base where personnel and facilities are available: Conduct a fluorescent dye penetrant inspection or equivalent, following the procedures covered under (a) above.

Apply penetrant while under torsional load.

(c) Repeat the inspection of (b) above

every 65 hours time in service on Model 707-100-Series aircraft, and every 130 hours time in service on Model 707-300-Series aircraft. (d) Within the next 300 hours time in

service the following must be accomplished:

- (1) Round off to 1/2 inch radius the sharp corner at top outboard side of outboard lugs from chamfer to where lug fairs with outer cylinder.
- (2) Disconnect upper torsion link from outer cylinder.
- (3) Conduct magnetic particle inspection or equivalent of the outer cylinder surface specified in (a) (1) for cracks or inclusions. (e) Repeat the inspection of (d)(2) and

(d) (3) every 300 hours thereafter.

(f) If cracks or magnetic indications are

- found, perform the following rework:

 (1) Remove defective area with hand file and smooth with No. 320 emery paper within following limits: Minimum radius 1.00 inch, maximum depth 0.03 inch and
- maximum length 1.00 inch. (2) Magnetic particle inspection is required after rework to verify removal of defects from cylinder.
- (g) Cylinders with defects that cannot be removed within the rework limits given in (f) above must be replaced.

(Boeing Service Bulletin No. 717 covers this subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 8, 1960.

> E. R. QUESADA, Administrator.

[F.R. Doc. 60-362; Filed, Jan. 14, 1960; 8:45 a.m.]

[Reg. Docket No. 230; Amdt. 77]

PART 507—AIRWORTHINESS **DIRECTIVES**

Piper Aircraft, Tail Brace Wires

Cracks have been found on a number of tail brace wires P/N 10074-2 or P/N 10074-3. Investigation of these failures shows that the condition is likely to be present on other aircraft of the same type. Complete failure of these wires could result in a catastrophic accident. Since safety is affected by this failure, it is necessary to require repetitive inspection and repair or replacement if defects are found.

In the interest of safety the Administrator finds that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing § 507.10(a) (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive.

PIPER. Applies to all Models PA-12, PA-14, PA-20, PA-22 "135", PA-22 "150" and PA-22 "160" Series aircraft.

Compliance required not later than January 30, 1960, and at each 100 hours time in service thereafter.

A number of failures of a tail brace wire, P/N 10074-2 or P/N 10074-3 have occurred. In order to prevent the possibility of a catastrophic accident in the event one of these wires should fail, the following inspection shall be accomplished:

(a) Clean the tail brace wires and inspect for cracks, nicks, manufacturing flaws, and tool marks with a 10-power magnifying glass, paying particular attention to the leading and trailing edges. The wires may remain on the airplane for this inspection.

(b) Should cracks or nicks be found, it shall be acceptable to sand the affected area with No. 500 sandpaper or equivalent, to remove the cracks or nicks. Sanding shall not reduce the width of the wire by more than 0.015 inch (1/64). After the sanding operation the wires shall be painted to preclude corrosion of the sanded area. Any wire containing a crack or nick which cannot be removed by sanding within the specified limits shall be replaced. (The defective wires should be destroyed or permanently marked to prevent inadvertent reuse.)

(Piper Service Bulletin No. 183 covers this subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-363; Filed, Jan. 14, 1960; 8:45 a.m.]

[Reg. Docket No. 231; Amdt. 78]

PART 507—AIRWORTHINESS DIRECTIVES

Vickers Viscount 745D Aircraft

Examination of unbushed wing spars on certain Vickers Viscount 745D aircraft revealed that corrosion and frettage on the spar face were more advanced than originally anticipated when AD 58-18-2 (23 F.R. 8093) was adopted. That directive required corrective modification be accomplished before 10,000 flying hours. Service experience has shown that such deterioration is a result of calendar time as well as service time. Accordingly, a new directive is issued superseding AD 58-18-2, adding the requirement that oversized skin to spar attachment bolts be installed within five years from the date of aircraft manufacture. Bolt material and serial numbers of affected aircraft are also added for clarification.

In the interests of safety the Administrator finds that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the Federal Register.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

Vickers. Applies to Viscount Model 745D Serial Nos. 103 to 107 inclusive, 109 to 134 inclusive, 136 to 139 inclusive, 183, 184, 185, 191, 198 to 217 inclusive, 231, 232, 233, 234, 285, 334.

Compliance required before the aircraft attain 10,000 hours time in service or 5 years from the date of manufacture, whichever occurs first.

As a result of instances of corrosion which have been found to occur in the skin to wing spar boom attachment holes, it is necessary that aircraft built to modification D.953 standard have oversized skin to spar attachment bolts installed for the inner and outer top booms (unbushed) in accordance with part (e) of Vickers Modification Bulletin No. D.2081.

The oversize bolts are of 8.80 material cadmium plated either $\frac{1}{12}$ or $\frac{1}{16}$ oversize as required, depending upon the state of the holes; this is determined by the inspections detailed in the modification leaflet. Thickol is used as scalant when the oversize bolts are fitted.

(Modification Bulletin D.2081 covers this subject.)

This supersedes AD 58-18-2.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-364; Filed, Jan. 14, 1960; 8:45 a.m.]

[Reg. Docket No. 173; Amdt. 79]

PART 507—AIRWORTHINESS DIRECTIVES

Boeing Aircraft

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring modifications to the water injection

system on the Boeing 707-100 series aircraft was published in 24 F.R. 9061.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments were received which objected to item (a) of the proposed directive on the basis that it was not a safety of flight item, and item (c) because of unavailability of Service experience has shown that it is necessary to provide a means to give a positive check of valve functioning, since failure of the valve results in loss of engine thrust. The manufacturer has verified that the required parts are available. After consideration of all relevant material it was decided that the airworthiness directive as proposed is necessary to prevent the hazardous condition created by malfunctioning within the water injection system.

In consideration of the foregoing \$507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

BOEING. Applies to the following 707-100 series aircraft only: 17586 through 17591, 17609 through 17612, 17628 through 17650, 17658 through 17672, 17696 through 17702, 17925 through 17927. Compliance required by April 1, 1960.

Because of the hazardous condition caused by water injection system fallures, the following modifications shall be accomplished as indicated:

(a) Relocate the water inlet valve switch from the co-pilot's panel to the flight engineer's panel and add four transient position blue indicating lights (one for each valve). Install a placard for nomenclature.

(b) Change water booster pumps start switch on co-pilot's panel to a two-position toggle switch.

(c) Add an amber light in the position vacated by item (a) above and wire to booster pump switch through the pressure switch to indicate when pressure is off and switch is on. Install appropriate placard adjacent to switch to remind flight personnel that switch must be turned off after water pressure light goes out at the end of water injection to avoid damaging the tank mounted booster pumps.

These modifications are included in Boeing Service Bulletin No. 194 (R-1) dated June 19. 1959.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-365; Filed, Jan. 14, 1960; 8:45 a.m.]

[Reg. Docket No. 235; Amdt. 80]

PART 507—AIRWORTHINESS DIRECTIVES

Boeing 707–100 Series Aircraft

Continued investigation of the cause of cracks occurring in the wing splice plates on Boeing 707-100 aircraft shows that in addition to service time, calendar time is a significant factor in the cracking of these plates resulting in failure at a much lower time than considered by AD 59-13-5 (24 F.R. 5635). Accordingly, it is necessary for flight safety to lower the inspection period required by AD 59-13-5 and add the calendar time factor.

In the interests of safety the Administrator finds that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing § 507.10(a) (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

Boeing. Applies to the following 707-100 Series aircraft only: Serial Numbers 17586 through 17591, 17609, 17610, 17628 through 17638, 17640, 17641, 17658 through 17667, and 17696.

The occurrence of cracks in seven wing splice plates on early 707-100 Series aircraft, and the subsequent cracking of two plates in service, one after 1,150 flight hours, has led to further investigations which indicate that the plates used in early production can be expected to crack after certain periods of calendar and/or service time. These plates are installed on the wing lower surface at RBL 70.5 and LBL 70.5. Improved plates have been installed on airplanes other than noted above.

The following inspections must be conducted until improved plates are installed at which time these special inspections are no longer required.

(a) Unless already accomplished within the last four months or 750 hours time in service, within the next 200 to 400 hours time in service:

(1) Remove left- and right-hand lower wing-body fairings.

(2) Visually inspect all wing lower splice plates for cracks at RBL 70.5 and LBL 70.5.

(3) Replace any splice plate found to be cracked, with Boeing redesigned plate in accordance with Boeing installation procedures.

(b) Repeat the inspections of original plates, as described in (a), every four months or 750 hours time in service, whichever occurs first.

(Boeing Service Bulletin No. 186 (R-1)

covers this same subject.)
This supersedes AD 59-13-5 (24 F.R. 5635).
(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776;
49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-366; Filed, Jan. 14, 1960; 8:45 a.m.]

SUBCHAPTER E-AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-WA-362] [Amdt. 201]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 223]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 63]-

PART 608-RESTRICTED AREAS

Revocation of Restricted Area and Modification of Control Area Extension

On October 24, 1959, a notice of proposed rule-making was published in the

FEDERAL REGISTER (24 F.R. 8658) stating that the Federal Aviation Agency was considering an amendment to \$608.54 of the regulations of the Administrator, which would revoke the Quantico, Va., Restricted Area (R-37), the Camp A. P. Hill, Va., Restricted Area (R-40), the Potomac River, Va., Restricted Area (R-41), the Ship Shoals Island, Va., Restricted Area (R-47), and the Plum Tree Island, Va., Restricted Area (R-49). As stated in the notice, the Federal

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Federal Aviation Agency including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898). According to the data available, it appeared that these restricted areas did not have sufficient justification to warrant continued designation and the revocation thereof would be in the public interest.

No adverse comments were received regarding the proposed revocation of Restricted Areas (R-47) and (R-49). Additionally, the Departments of the Navy and Air Force advised that they concurred in the revocation of Restricted Areas (R-47) and (R-49). Accordingly, no further justification exists for the retention of these restricted areas. Although the Notice included the proposed revocation of the Quantico (R-37), Camp A. P. Hill (R-40), and the Potomac River (R-41), Restricted Areas, actions on these restricted areas are being deferred at this time to permit further evaluation. Any actions concerning these areas will be issued under Airspace Docket No. 59-WA-362a, 59-WA-362b, and 59-WA-362c respectively. Although not mentioned in the Notice, it is necessary to delete reference to R-47 in the description of Blue Federal airway No. 23, and the Norfolk, Va., control area extension; and delete reference to R-49 in the description of Red Federal airways No. 19, 33 and 51, the Hampton Roads, Va., control zone, and the Norfolk control area extension.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following actions are taken:

1. § 608.54 Virginia:

- (a) The Ship Shoals Island, Virginia, Restricted Area (R-47) (Norfolk Chart) (23 F.R. 8589) is revoked.
- (b) The Plum Tree Island, Virginia, Restricted Area (R-49) (Norfolk Chart) (23 F.R. 8589) is revoked.
- 2. In the text of § 600.219 Red Federal airway No. 19 (Traverse City, Mich., to Norfolk, Va.), (24 F.R. 10497), delete "excluding the portion which overlaps Plum Tree Island restricted area (R-49)."
- 3. In the text of § 600.233 Red Federal airway No. 33 (Norfolk, Va., to Richmond, Va., and Poughkeepsie, N.Y., to Chicopee Falls, Mass.), (24 F.R. 10497), delete "excluding the portion which overlaps the Plum Tree Island Restricted Area (R-49),".

- 4. In the text of § 600.251 Red Federal airway No. 51 (Blackstone, Va., to Norfolk, Va.), (24 F.R. 10498), delete "and the Plum Tree Island Restricted Area (R-49)."
- 5. In the text of § 600.623 Blue Federal airway No. 23 (Norfolk, Va., to to Chincoteague, Va.), (24 F.R. 10501), delete "and Ship Shoal Island restricted area (R-47)."
- 6. In the text of \$601.1149 Control area extension (Norfolk, Va.), (24 F.R. 10555), delete "R-47, R-49,".
- 7. In the text of § 601.2118 Hampton Roads, Va., control zone, (24 F.R. 10577), delete "excluding the portion which overlaps restricted area R-49".

These amendments shall become effective upon publication in the Federal Register.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-374; Filed, Jan. 14, 1960; 8:47 a.m.]

[Airspace Docket No. 59-WA-378] [Amdt. 220]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 60]

PART 608-RESTRICTED AREAS

Revocation of Restricted Areas and Modification of Control Area Extension

On November 10, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 9173) stating that the Federal Aviation Agency was considering an amendment to § 608.64 of the regulations of the Administrator, which would revoke the Agat Bay, Guam, Restricted Area (R-474), the Farallon de Medinilla, Guam, Restricted Area (R-476), and the Nafatan Rock, Guam, Restricted Area (R-478).

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Federal Aviation Agency including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898). According to the data available, it appeared that these restricted areas did not have sufficient justification to warrant continued designation and the revocation thereof would be in the public interest. No adverse comments were received regarding the proposed revocation of Restricted Areas (R-474) and (R-476). Additionally, the Departments of the Navy and Air Force advised that they concurred in the revocation of Restricted Areas (R-474) and (R-476), Accordingly, no further justification

exists for the retention of these restricted areas. Although the Notice included the proposed revocation of the Nafatan Rock, Restricted Area (R-478), action on this restricted area is being deferred at this stime to permit further evaluation. Any action concerning (R-478) will be issued under Airspace Docket No. 59-WA-378a. Although not mentioned in the Notice, it is necessary to delete reference to Restricted Area (R-474) in the description of the Guam Island control area extension.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following action is taken:

1. In § 608.64 Guam:

- (a) The Agat Bay, Restricted Area (R-474) (WAC 731 Chart Guam) (23 F.R. 8592) is revoked.
- (b) The Farallon de Medinilla Restricted Area (R-476) (WAC 731 Chart Guam) (23 F.R. 8592) is revoked.
- 2. In the text of § 601.1383 Control area extension (Guam Island), (24 F.R. 10566), delete "restricted areas R-474 and" and substitute therefor "restricted area."

These amendments shall become effective upon the date of publication in the Federal Register.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-369; Filed, Jan. 14, 1960; 8:46 a.m.]

[Airspace Docket No. 59-WA-390]

[Amdt. 221]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 61]

PART 608-RESTRICTED AREAS

Revocation of Restricted Area and Modification of Control Area Extension

On November 11, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 9213) stating that the Federal Aviation Agency was considering an amendment to \$608.41 of the regulations of the Administrator, which would revoke the Currituck Sound, N.C., Restricted Area (R-32), (Norfolk Chart).

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Agency, including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898).

According to the data available, it appeared that Restricted Area (R-32) did not have sufficient justification to warrant continued designation, and the revocation thereof would be in the public interest. No adverse comments were received regarding the proposed amendment. Additionally, the Department of the Navy advised that it concurred in the revocation of this restricted area. Accordingly, no further justification exists for the retention of the Currituck Sound, Restricted Area (R-32). Although not mentioned in the Notice, it is necessary to delete the reference to Restricted Area (R-32) in the description of the Norfolk, Va., control area extension.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following action is taken:

1. In § 608.41 North Carolina, the Currituck Sound, N.C., Restricted Area (R-32) (Norfolk Chart) (23 F.R. 8586), is revoked.

2. In the text of \$601.1149 Control area extension (Norfolk, Va.), (24 F.R. 10555), delete "R-32,".

These amendments shall become effective upon the date of publication in the Federal Register.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA,

Administrator.

[F.R. Doc. 60-370; Filed, Jan. 14, 1960; 8:46 a.m.]

[Airspace Docket No. 59-WA-388] [Amdt. 200]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 48]

PART 608-RESTRICTED AREAS

Revocation of Restricted Area and Modification of Control Area Extension

On November 11, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 9217) stating that the Federal Aviation Agency was considering an amendment to § 608.54 of the regulations of the Administrator which would revoke the Great Machipongo Inlet, Va., Restricted Area (R-85) (Norfolk Chart).

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Agency, including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5298).

According to the data available, it appeared that Restricted Area (R-85) did not have sufficient justification to warrant continued designation, and revocation thereof would be in the public interest. No adverse comments were received regarding the proposed amendment. Additionally, the Department of the Air Force advised that it concurred in the revocation of this restricted area. Accordingly, no further justification exists for the retention of the Great Machipongo Inlet, Va., Restricted Area (R-85). Although not mentioned in the Notice, it is necessary to delete the reference to Restricted Area (R-85) in the description of the Norfolk, Va., control area extension.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following action is taken:

1. In § 608.54, the Great Machipongo Inlet, Va., Restricted Area (R-85) (Norfolk Chart) (17 F.R. 3144, 3724; 23 F.R. 6492) iş revoked.

2. In the text of § 601.1149 Control area extension (Norfolk, Va.), (14 CFR, 1958 Supp., 601.1149, 24 F.R. 1285), delete "R-85,".

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-371; Filed, Jan. 14, 1960; 8:46 a.m.]

[Airspace Docket No. 59-WA-372a]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 55]

PART 608-RESTRICTED AREAS

Revocation of Restricted Area and Modification of Control Area Extension

On November 10, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 9171) stating that the Federal Aviation Agency was considering an amendment to § 608.13 of the regulations of the Administrator which would revoke the Little Rock, Ark., Restricted Area (R-134) (Little Rock Chart) and the Pine Bluff, Ark., Restricted Area (R-135) (Little Rock Chart).

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all restricted areas. This review is based upon all data available to the Federal Aviation Agency, including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898). According to the data available, it appeared that Restricted Areas R-134 and R-135 did not have sufficient justification to warrant continued designation, and revocation thereof would be in the public interest.

No objection was received to the revocation of Restricted Area R-135, and it is, therefore, being revoked in this amendment. Moreover, the U.S. Army has advised they no longer have a requirement for this restricted area. Additionally, it is necessary to delete any reference to this restricted area in the description of the Little Rock control area extension. An objection was received concerning the proposal to revoke Restricted Area R-134, and further study is being given this proposed action.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following action is taken:

1. In § 608.13 the Pine Bluff, Ark., Restricted Area (R-135) (Little Rock Chart) (23 F.R. 8576, 24 F.R. 2233, 3230) is revoked.

2. In the text of § 601.1035 Control area extension (Little Rock, Ark.), (14 CFR, 1958 Supp., 601.1035), delete "(R-134), and excluding the portion below 15,000 feet between sunrise and sunset daily which lies within Pine Bluff restricted area (R-135)." and substitute therefor "(R-134)."

These amendments shall become effective 0001 e.s.t., February 11, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on Jan- uary 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-372; Filed, Jan. 14, 1960; 8:46 a.m.]

[Airspace Docket No. 59-WA-375] [Amdt. 227]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 67]

PART 608-RESTRICTED AREAS

Revocation of Restricted Area and Modification of Control Area Extension

On November 11, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 9209) stating that the Federal Aviation Agency was considering an amendment to § 608.19 of the regulations of the Administrator, which would revoke the Townsend, Ga., Restricted Area (R-339)...

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Federal Aviation Agency including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898). According to the data available, it appeared that this restricted area did not have sufficient justification to warrant continued designation, and the revocation thereof would be in the public interest.

A comment was received from the Department of the Navy regarding the proposed revocation of the Townsend Restricted Area. The Navy requested redesignation of the area as a joint-use restricted area and transfer of use to the Navy from the Air Force for the purpose of accommodating overflow operations from the restricted areas in the vicinity of Jacksonville, Fla. This request is being rejected because the Navy has not submitted sufficient justification to establish its need for this additional restricted airspace in the vicinity of the Jacksonville area. In addition, the Air Force has informally advised that they have discontinued use of R-339 because the activities conducted therein conflicted with Hunter Air Force Base, Ga., terminal operations. The transfer of this restricted area to the Navy for the same use will not eliminate this conflict with military operations. No written comment has been received from the Department of the Air Force regarding the proposed revocation, thus it is assumed that they have no objection thereto.

In consideration of the above, it has been determined that no further justification exists for the continued designation of the Townsend Restricted Area (R-339). Although not mentioned in the notice, it is necessary to delete reference to (R-339) in the description of Savannah, Ga., control extension.

No comments other than that above were received regarding the proposed amendment concerning the Townsend Restricted Area (R-339).

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all' relevant matter presented.

In consideration of the foregoing, the following actions are taken:

- 1. In § 608.19 Georgia, The Townsend, Ga., Restricted Area (R-339) (Jacksonville Chart) (23 F.R. 8580) is revoked.
- 2. In the text of § 601.1008 Control area extension (Savannah, Ga.), (24 F.R. 10547), delete "Townsend Restricted Area R-339,".

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 Ù.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA. Administrator.

8:47 a.m.]

[Airspace Docket No. 59-WA-876]

[Amdt, 2221

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA. CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG-MENTS

[Amdt. 62]

PART 608-RESTRICTED AREAS

Revocation of Restricted Area and Modification of Control Area Extension

On November 10, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 9173) stating that the Federal Aviation Agency was considering an amendment to § 608.62 of the regulations of the Administrator, which would revoke the Waikane, Hawaii, Restricted Area $(R_{-}496)$

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Federal Aviation Agency, including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898). According to the data available, it appeared that Restricted Area (R-496) did not have sufficient justification to warrant continued designation, and the revocation thereof would be in the public interest. No adverse comments were received regarding the proposed amendment. Additionally, the Department of the Navy advised that it concurred in the revocation of this restricted area. Accordingly, no further justification exists for the retention of the Waikane, Hawaii, Restricted Area (R-496). Although not mentioned in the Notice, it is necessary to delete the reference to Restricted Area (R-496) in the description of the Oahu, Hawaii, control area extension.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following action is taken:

- 1. In § 608.62 Hawaii, the Waikane, Hawaii, Restricted Area (R-496) (Honolulu Chart) (23 F.R. 8591) is revoked.
- 2. In the text of § 601.1423 Control area extension (Oahu, Hawaii), (24 F.R. 10568), delete "R-335 and R-496" and substitute therefor "and R-335".

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA. Administrator.

[F.R. Doc. 60-373; Filed, Jan. 14, 1960; [F.R. Doc. 60-376; Filed, Jan. 14, 1960; 8:47 a.m.)

[Airspace Docket No. 59-KC-49] [Amdt. 64]

PART 608-RESTRICTED AREAS

Revocation

On November 18, 1959, a notice of proposed rule-making was published in the FEDERAL REGISTER (24 F.R. 9312) stating that the Federal Aviation Agency was considering an amendment to § 608.30 of the regulations of the Administrator. which would revoke the Lower Lake Huron, Mich., Restricted Area (R-60).

As stated in the notice, the Federal Aviation Agency is currently reviewing the utilization of all existing restricted areas. This review is based upon all data available to the Federal Aviation Agency, including any received in response to Special Airspace Regulation No. 1 (24 F.R. 5898). According to the data available, it appeared that the Lower Lake Huron Restricted Area did not have sufficient justification to warrant continued designation and the revocation thereof would be in the public interest.

No adverse comments were received regarding the proposed amendment. Additionally, the Department of the Air Force advised that it concurred in the revocation of this restricted area. Accordingly, no further justification exists for the retention of the Lower Lake Huron, Restricted Area (R-60).

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the following action is taken:

In § 608.30 Michigan, the Lower Lake Huron, Mich., Restricted Area (R-60) (Detroit Chart) (23 F.R. 8582) is revoked.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 Ù.S.C. 1348, 1354)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-375; Filed, Jan. 14, 1960; 8:47 a.m.]

[Reg. Docket No. 232; Amdt. 620-8]

PART 620—SECURITY CONTROL OF AIR TRAFFIC

Part 620 was last revised effective December 1, 1955. Since that time, seven amendments to the part have been issued. In addition, adoption of the Federal Aviation Act of 1958 and Executive Order 10854 necessitate certain technical changes.

Part 620 is hereby revised to consolidate the various amendments pursuant to the authority noted above.

Inasmuch as this amendment involves no substantive change, and is clarifying in nature, notice and public procedure hereon are unnecessary, and the amendment may be made effective immediately.

Sec

RULES AND REGULATIONS

In consideration of the foregoing, and pursuant to the authority vested in me by sections 307, 313(a), and 1202 of the Federal Aviation Act of 1958 (72 Stat. 731) and Executive Order 10854. Part 620 (14 CFR Part 620) is hereby revised to read as follows:

Subpart A-Introduction

620.1	Basis and purpose.
620.2	Definitions.

Subpart B-Operating Rules

620.10	Scope.
620.11	Flight plans.
620.12	Reporting points.
620.13	Authorized exceptions.
620.14	Adherence to flight plans or air traf-
	fic clearances.
620 15	Emergency situations

620.16 Radio failure.

620 17 Air defense security instructions.

620.18 Violations.

Subpart C--Designated Air Defense Identification Zones and Defense Areas

620.20 General. 620.21 Domestic ADIZ's.

620.22 Coastal ADIZ's.

Subpart A-Introduction

§ 620.1 Purpose.

This part establishes rules which have been found necessary in the interest of national defense to identify, locate, and control United States and foreign aircraft operated within areas designated by the Administrator of the Federal Aviation Agency as Air Defense Identification Zones (ADIZ).

§ 620.2 Definitions.

As used in this part, the following words shall mean:

- (a) Aircraft. Any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.
- (b) Air Defense Identification Zone (ADIZ). Airspace of defined dimensions designated by the Administrator of the Federal Aviation Agency within which the ready identification, location. and control of aircraft is required in the interest of national security.
- (1) Domestic Air Defense Identification Zone. An air Defense Identification Zone within the United States or along an international boundary of the United States.
- (2) Coastal Air Defense Identification Zone. An Air Defense Identification Zone over the coastal waters of the United States.
- (c) Defense area. Airspace of the United States other than airspace designated as an Air Defense Identification Zone (ADIZ) but within which the ready control of aircraft is required in the interest of the national security during an Air Defense Emergency.
- (d) Air defense emergency. Any state of events which indicates to Commander in Chief, Continental Air Defense Command, or higher authority that hostile action is in progress or is imminent or is sufficiently probable as to require, in the interest of national security, the implementation of any portion of approved plans and agreements for the defense of the United States.

(e) Appropriate aeronautical facility. The normal communications facility with which flight plans or position reports are filled.

(f) FAA-Airways operations facility. A Federal Aviation Agency control tower. air route traffic control center, or communications station.

- (g) Flight plans. Specified information which is filed either verbally or in writing with an appropriate aeronautical facility relative to the intended flight of an aircraft.
- (h) Foreign aircraft. An aircraft other than a United States aircraft defined in paragraph (n) of this section.
- (i) IFR flight. A flight conducted under the instrument flight rules of the air traffic rules of Part 60 of this title.
- (j) Operate aircraft. The use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft.
- (k) Person. Any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver. assignee, or other similar representative thereof.

(1) Reporting point., A geographical location in relation to which the position of an aircraft is reported.

(m) United States. The States, the District of Columbia, and the several Territories and possessions of the United States (including areas of land or water administered by the United States under international agreement), including the Territorial waters and the overlying airspace thereof.

(n) United States aircraft. (1) An aircraft registered with the Administrator of the Federal Aviation Agency as a "civil aircraft of the United States"

(2) An aircraft of the national defense forces of the United States, or

- (3) An aircraft of the Federal Government, or of a State, Territory or Possession of the United States, or the District of Columbia, or of any political subdivision thereof which has been registered with the Administrator of the Federal Aviation Agency.
- (o) VFR flight. A flight conducted under the Visual Flight Rules of Part 60 of this title.

Subpart B—Operating Rules

§ 620.10 Scope.

Aircraft shall not be operated into or within an Air Defense Identification Zone (ADIZ) prescribed by the Administrator in Subpart C of this part in violation of the rules stated in this subpart.

Note: These Air Defense Identification Zones are depicted in FAA Flight Information Manual, Radio Facility Charts published by the Coast and Geodetic Survey, and USAF and Navy Radio Facility Charts.

§ 620.11 Flight plans.

Unless otherwise authorized under § 620.13, prior to penetrating an ADIZ or prior to take-off from a point within an ADIZ, a flight plan shall be filed with an appropriate aeronautical facility.

Note: Pilots are urged to file flight plans in person or by telephone prior take-off. Within the Continental United States, a pilot unable to file in person may file a DVFR flight plan by placing a collect telephone call to the nearest FAA communications station or other FAA facility. (Standard procedures for making use of this service are published in the Airman's Guide and Flight Information Manual.)

- (a) IFR flights. Unless an abbreviated flight plan is authorized by air traffic control, the flight plan shall contain the following information:
- (1) Aircraft identification, and if necessary, radio call sign;
- (2) Type of aircraft, or in the case of a formation flight, the types and number of aircraft involved:
- (3) Full name, address, and number of pilot certificate of pilot in command of the aircraft, or of the flight commander if a formation flight is involved:

(4) Point of departure:

- (5) Cruising altitude, or altitudes, and the route to be followed;
 - (6) Point of first intended landing:
- (7) Proposed true air speed at cruising altitude;
- (8) Radio transmitting and receiving frequencies to be used;

(9) Proposed time of departure:

- (10) Estimated elapsed time until arrival over the point of first intended landing;
 - (11) Alternate airport or airports;
- (12) Amount of fuel on board expressed in hours;
- (13) Any other information which the pilot in command of the aircraft, or air traffic control, deems necessary for air traffic control purposes:
- (14) For international flights, the number of persons on board.
- (b) VFR flights. Unless an abbreviated flight plan is authorized by air traffic control, the flight plan shall contain the information specified in paragraphs (a) (1) through (10) of this section. Such a flight plan shall be designated by the pilot in command as a Defense Visual Flight Rules (DVFR) flight plan.
- (c) Notification of arrival. If a DVFR flight plan has been filed, or if an IFR flight plan has been filed for a flight for which an air traffic control clearance is not required, the pilot in command of the aircraft, upon landing or completion of the flight, shall file an arrival or completion notice with the nearest FAA communications station or control tower. unless the pilot in command states in the flight plan that no arrival notice will be filed.

Note: Pilots are urged to file flight plans either in person or by telephone. Flight plans filed by radio while in flight may re-sult in interception of the aircraft to confirm its identity.

§ 620.12 Reporting points.

- (a) Flights within or penetrating a Domestic ADIZ. Unless otherwise authorized under § 620.13:
- (1) IFR flights—(i) Within control zones and areas. Position reports shall

be made as required by the Instrument Flight Rules of Part 60 of this title.

(ii) Outside control zones and areas.The reporting procedures specified for

DVFR flights will apply.

(2) DVFR flights. The pilot in command of an aircraft shall not operate an aircraft into or within an ADIZ unless the aircraft is equipped with a functioning two-way radio and shall not enter an ADIZ until:

(i) He has reported to an appropriate aeronautical facility the time, position, and altitude at which the aircraft passed the last reporting point along the flight path of the aircraft prior to penetration of an ADIZ and his estimated time over the next reporting point along the intended flight path of the aircraft; or if it is not practicable to comply with this reporting procedure.

(ii) A report which contains the estimated time, position, and altitude at which he will penetrate the ADIZ has been made to an appropriate aeronautical facility at least fifteen minutes prior

to penetration.

Note: A pilot of an aircraft departing from an airport too close to an ADIZ boundary to reach cruising altitude before entering the ADIZ or to report an estimated time and place of penetration at least 15 minutes prior to penetration will be considered to have compiled with this section and with § 620.14: Provided, He reports immediately after takeoff the departure time with an estimate at the first reporting point along the flight path.

- (b) Aircraft entering the United States through a Coastal ADIZ—(1) United States aircraft. The reports prescribed in paragraph (a) of this section are required.
- (2) Foreign aircraft. The pilot in command of a foreign aircraft shall not operate an aircraft into the United States without:

(i) Making position reports as prescribed for United States aircraft in subparagraph (1) of this paragraph, or

(ii) Reporting to an appropriate aeronautical facility when the aircraft is not less than one hour and not more than two hours average cruising distance via the most direct route, from the United States. Thereafter, reports shall be made as instructed by the facility receiving the original report.

Note: Operators of foreign aircraft who exercise the optional position reporting method described in subdivision (ii) of this subparagraph are cautioned that this procedure does not eliminate the position reporting requirements prescribed for the control of air traffic.

§ 620.13 Authorized exceptions.

The provisions of this subpart except for § 620.17 are not applicable to the following aircraft operations:

(a) Speeds excepted. Aircraft operating into or within a Domestic ADIZ at true air speeds of 150 knots or less, if the flight is conducted at an altitude of 3,000 feet (4,000 feet in Alaska) or less above the terrain. For the purpose of this regulation the terrain shall mean the highest point within ten (10) nautical miles on either side of the course of flight and within twenty (20) nautical miles ahead or behind the aircraft.

(b) Altitudes excepted — Hawaiian ADIZ. Aircraft operating within the Hawaiian ADIZ on inter-Hawaiian Island flights on Red Federal Airway No. 87 southeast of the Island of Oahu, below seven thousand (7,000) feet MSL.

(c) Areas or routes accepted—(1) General. Flights exempted by a FAA air route traffic control center. Such flights shall be operated in accordance with the instructions, if any, issued at the time the exemption is granted.

Note: Flights which may be exempted, after approval has been obtained from appropriate military commanders, are (a) flights wholly within the boundaries of an ADIZ, (b) flights not currently of significance to the air defense system, or (c) military flights which are conducted in accordance with special procedures prescribed by appropriate military authorities.

- (2) Continental United States. (i) A flight originating in any part of the continental United States except Alaska which maintains an outbound track into or through the Northern ADIZ or the Southern Border ADIZ, or into Canada and does not penetrate a Coastal ADIZ.
- (ii) A flight originating within the Northern ADIZ which maintains an outbound track toward or across the United States-Canadian Border.

(iii) A local flight within ten (10) miles of the point of departure.

- (iv) Exception from requirement for two-way radio: Aircraft without twoway radio may enter and operate within an ADIZ, or may operate entirely within an ADIZ under the following conditions:
- (a) The flight is exempted from filing a DVFR flight plan by reason of speed and altitude, or
- (b) The pilot adheres to a filed DVFR flight plan which includes the route, altitude, point of penetration and estimated elapsed time to the point of penetration, and: *Provided*, That the departure is effected within five minutes of the filed estimated time of departure.

Note: The tolerances outlined in the note under $\S 620.14(b)$ will apply to this exemption.

- (3) Hawaiian ADIZ. Aircraft operating within the Hawaiian ADIZ over any island or within three miles of the coastline of any island.
- (4) Guam ADIZ. Within the Guam ADIZ, the exceptions of subparagraph (1) of this paragraph may be granted by the aeronautical facility exercising security control. The instructions issued at the time authorization is granted for an intra-zone VFR flight shall include the requirement that the aircraft be equipped with a functioning two-way radio and that a listening watch be maintained on the appropriate radio frequency.

§ 620.14 Adherence to flight plans or air traffic clearances.

(a) IFR flights—(1) Within control zones and areas. No deviation shall be made from an air traffic clearance unless an amended clearance is obtained from FAA air traffic control. In case emergency authority is used to deviate from the provision of an air traffic clearance, the pilot in command shall notify air traffic control as soon as possible and,

if necessary, obtain an amended clearance. However, nothing in this paragraph shall prevent a pilot, operating on an IFR traffic clearance, from notifying air traffic control that he is canceling his IFR flight plan and proceeding under VFR: *Provided*, That he is operating in VFR weather conditions when he takes such action.

Note: A pilot who cancels an IFR flight plan should not neglect to file a DVFR flight plan if any of the remainder of the flight will be conducted in an Air Defense Identification Zone.

- (2) Outside control zones and areas. When a flight is conducted in accordance with IFR within or into an ADIZ where an air traffic clearance is not required by the Civil Air Regulations, no deviation from the flight plan, as filed, shall be made unless prior notification is given to an appropriate aeronautical facility.
- (b) DVFR flights. No deviation shall be made from a DVFR flight plan unless prior notification is given to an appropriate aeronautical facility.

Note: The requirements of the air defense of the United States make it imperative that pilots adhere to their flight plans or air traffic clearances within the following time distance, and altitude tolerances. Failure to meet these requirements may jeopardize the effective identification of aircraft and thereby the national defense effort. Flights which are operated in excess of these tolerances may be subject to interception:

- (a) Five minutes from an estimated time over a reporting point or point of penetration of an ADIZ; or, in the case of a flight originating within an ADIZ, five minutes from the proposed time of departure specified in the flight plan, unless the actual time of departure is reported to the appropriate aeronautical facility.
- (b) Ten miles from the centerline of the route of flight if the flight is entering or operating within a Domestic ADIZ or 20 miles from the centerline of the route of flight if the flight is entering or operating within a Coastal ADIZ.
- (c) A pilot in command of an aircraft when on a DVFR flight plan or an IFR flight plan for which air traffic clearance is not required should not deviate from the cruising altitude specified in the flight plan unless prior notification is given to an appropriate aeronautical facility, except that he may begin descent from the altitude specified in the flight plan within reasonable distance of destination without reporting change of altitude.

§ 620.15 Emergency situations.

In emergency situations which require immediate decision and action for the safety of the flight, the pilot in command of the aircraft may deviate from the provisions of this part to the extent required for such emergency. When a deviation is exercised, the pilot in command shall report such deviation and the reasons therefor, as soon as practicable to an appropriate aeronautical facility.

§ 620.16 Radio failure.

- (a) IFR flights. If unable to maintain two-way radio communications, the pilot in command of the aircraft shall:
- (1) If operating under VFR conditions, proceed under VFR and land as soon as practicable, or

(2) Proceed according to the latest air traffic clearance to the radio facility serving the airport of intended landing, maintaining the minimum safe altitude or the last acknowledged assigned altitude whichever is higher. Descent shall start at the expected approach time last authorized or, if not received and acknowledged, at the estimated time of arrival indicated by the elapsed time specified in the flight plan.

NOTE: Detailed procedures to be followed by the pilot are contained in the FAA Flight Information Manual, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C.

(b) DVFR flights. In case of the failure of two-way radio communications the flight may proceed in accordance with the original DVFR flight plan, and the pilot in command of the aircraft shall make a report of such failure, as soon as possible, to an appropriate aeronautical facility.

§ 620.17 Air defense security instructions.

Under emergency air defense conditions which may involve the national security, aircraft shall be operated into or within an ADIZ in accordance with such additional special security instructions as may be issued by the Administrator. Such instructions will be consistent with the provisions of the "Plan for the Security Control of Air Traffic During a Military Emergency," as approved 15 July 1952, or as subsequently amended.

§ 620.18 Violations.

In addition to the penalties otherwise provided for by the Federal Aviation Act of 1958, as amended, any person who knowingly or wilfully violates any provision prescribed in this part, or any order issued thereunder shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not exceeding \$10,000 or to imprisonment not exceeding one year, or to both such fine and imprisonment.

Subpart C—Designated Air Defense Identification Zones and Defense Areas

§ 620.20 General.

Airspace above the following described areas is established by the Administrator of the FAA as Domestic or Coastal Air Defense Identification Zones of Defense Areas.

§ 620.21 Domestic ADIZ's.

(a) Northern (Domestic) ADIZ:

The area bounded by a line from the United States-Canadian Border at 121°00′ W., eastward along the U.S.-Canadian Border to 47°10′ N., 85°31′ W.; 46°51′ N., 94°00′ W.; 47°10′ N., 96°17′ W.; 48°00′ N., 99°00′ W.; to 43°00′ N., 121°00′ W.; to U.S.-Canadian Border at 121°00′ W. (point of beginning).

(b) Southern Border (Domestic) ADIZ:

A line extending from 32°16′ N., 117°08′ W.; 32°30′ N., 117°20′ W.; 32°32′03′′ N., 117°07′25′′ W.; eastward along the United States-Mexican Border to 25°58′ N., 97°07′ W.; 26°00′ N., 97°00′ W.; then along the 26 degree parallel to 26°00′ N., 96°35′ W.

(c) Alaskan (Domestic) ADIZ:

The area bounded by a line 69°50′ N., 141°00′ W.; 60°18′ N., 141°00′ W.; easterly along the International Boundary line to 60°20′ N., 139°30′ W.; 59°30′ N., 139°30′ W.; 59°28′ N., 146°18′ W.; 56°34′ N., 154°10′ W.; 58°39′ N., 162°03′ W.; 63°17′ N., 168°42′ W.; 68°53′ N., 166°16′ W.; 71°18′ N., 156°44′ W.; 69°50′ N., 141°00′ W. (point of beginning).

§ 620.22 Coastal ADIZ's.

(a) Pacific (Coastal) ADIZ:

The area bounded by a line 48°29'38" N., 124°43'35" W.; 48°00' N., 125°15' W.; 46°15' N., 124°30' W.; 43°00' N., 124°40' W.; 40°00' N., 124°35' W.; 38°56' N., 124°00' W.; 34°50' N., 121°10' W.; 34°00' N., 120°30' W.; 32°16' N., 118°25' W.; 32°16' N., 117°08' W.; along line parallel to and approximately 12 miles from the Mexican Coast to 29°00' N., 114°51' W.; 28°00' N., 123°10' W.; 37°42' N., 130°40' W.; 48°30' N., 132°10' W.; 48°30' N., 125°00' W.; 48°29'38" N., 124°43'35" W. (point of beginning).

(b) Atlantic (Coastal) ADIZ;

The area bounded by a line 44°30′ N., 67°07′ W.; 44°30′ N., 67°00′ W.; 43°00′ N., 67°00′ W.; 43°00′ N., 67°00′ W.; 43°00′ N., 63°45′ W.; 39°30′ N., 63°45′ W.; 30°45′ N., 74°00′ W.; 27°30′ N., 78°50′ W.; 25°40′ N., 79°25′ W.; 24°00′ N., 80°00′ W.; 24°49′ N., 79°25′ W.; 24°00′ N., 80°00′ W.; 28°45′ N., 80°00′ W.; 30°05′ N., 81°07′ W.; 30°50′ N., 80°50′ W.; 32°01′ N., 80°32′ W.; 35°10′ N., 75°10′ W.; 38°40′ N., 75°10′ W.; 37°00′ N., 75°10′ W.; 30°50′ N., 75°10′ W.; 40°15′ N., 70°00′ W.; 42°40′ N., 70°10′ W.; 43°10′ N., 70°00′ W.; 44°19′ N., 67°53′ W.; 44°30′ N., 67°07′ W. (point of beginning).

(c) Hawaiian (Coastal) ADIZ:

The area bounded by a line 24°15′ N., 158°00′ W.; 22°30′ N., 155°30′ W.; 19°45′ N., 153°30′ W.; 19°00′ N., 155°00′ W.; 18°15′ N., 158°00′ W.; 20°00′ N., 161°00′ W.; 22°30′ N., 161°00′ W.; 24°15′ N., 158°00′ W. (point of beginning).

(d) Guam (Coastal) ADIZ:

The area bounded by a circle with a radius of 200 nautical miles centered at the Guam Radio Range Station. (Latitude 13°32'41" N., longitude 144°50'30" E.)

(e) Alaskan (Coastal) ADIZ:

The area bounded by a line 73°00' N., 141°00' W.; 69°50' N., 141°00' W.; 71°18' N., 156°44' W.; 68°53' N., 166°16' W.; 63°17' N., 168°42' W.; 58°39' N., 162°03' W.; 56°34' N., 154°10' W.; 59°28' N., 146°18' W.; 59°30' N., 139°30' W.; 57°00' N., 139°30' W.; 52°00' N., 153°00' W.; 50°00' N., 174°00' W.; 60°00' N., 174°10' W.; 61°45' N., 177°00' W.; 65°00' N., 169°00' W.; 73°00' N., 169°00' W.; 73°00' N., 141°00' W. (point of beginning).

(f) Gulf of Mexico (Coastal) ADIZ:

The area bounded by a line 24°00' N., 97°00' W.; 26°00' N., 96°35' W.; 26°25' N., 96°30' W.; 28°05' N., 96°30' W.; 28°42' N., 95°17' W.; 29°26' N., 94°00' W.; 28°44' N., 90°00' W.; 30°00' N., 88°55' W.; 30°00' N., 86°00' W.; 28°45' N., 82°07' W.; 25°45' N., 83°30' W.; 25°45' N., 82°07' W.; 25°45' N., 81°27' W.; thence southeast along a line three nautical miles from the shore line to 25°10' N., 81°12' W.; 24°49' Ñ., 80°55' W.; 24°49' N., 80°00' W.; 24°00' N., 80°00' W.; then along the 24 degree parallel to 24°00' N., 97°00' W. (point of beginning).

This amendment shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 313(a), 807, 1110, 1202, 72 Stat. 752, 749, 800, 49 U.S.C. 1354(a), 1348, 1510, 1522. Executive Order 10854)

Issued in Washington, D.C., on January 8, 1960.

E. R. QUESADA, Administrator.

[F.R. Doc. 60-368; Filed, Jan. 14, 1960; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission
[Docket 7165 o.]

PART 13—PROHIBITED TRADE PRACTICES

Reliance Wool & Quilting Products, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely: 13.1108–90 Wool Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 Composition: 13.1185–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68(c)) [Cease and desist order, Reliance Wool & Quiliting Products, Inc., et al., Bronx, N.Y., Docket 7165, November 20, 1959]

In the Matter of Reliance Wool & Quilting Products, Inc., a Corporation, Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, Individually and as Officers of the Said Cyrporation

This case was heard by a hearing examiner on the complaint of the Commission charging manufacturers in Bronx, N.Y., with violating the Wool products Labeling Act by such practices as labeling and invoicing as "100 percent Reprocessed Wool", etc., quilted interlining materials which contained substantial quantities of non-woolen fibers, and by failing to label said wool products as required by the Act.

Based on a stipulation between counsel, the hearing examiner made his initial decision and order to cease and desist from which respondents appealed. The Commission agreed that, in the light of the Mandel Brothers decision, the form of the order, though not its substance should be revised and, on November 20, adopted the initial decision as thus modified as the decision of the Commission.

The order to cease and desist, as modified, is as follows:

It is ordered, That the respondents, Reliance Wool & Quilting Products, Inc., a corporation, and its officers, and Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or

distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of interlining materials or other "wool products", as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping. tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included

therein:

2. Failing to affix labels to wool products showing each element of information required to be disclosed by section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents, Reliance Wool & Quilting Products. Inc., a corporation, and its officers, and Idel Greenfeld, Jacob Hoffman, Sam Cymbrowitz, and Morris Volman, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of interlining materials, or any other materials, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers thereof on invoices or other shipping memoranda or in any other manner.

By "Final Order", report of compliance was required as follows:

It is further ordered, That the respondents named in the preamble of the order to cease and desist shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: November 20: 1959.

By the Commission.

[SEAL]

ROBERT M. PARRISH. Secretary.

[F.R. Doc. 60-380; Filed, Jan. 14, 1960; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B-FOOD AND FOOD PRODUCTS PART 121—FOOD ADDITIVES

Extension of Effective Date of Statute for Certain Specified Food Addi-

The Commissioner of Food and Drugs, pursuant to the authority provided in the Federal Food, Drug, and Cosmetic Act (sec. 6(c), Public Law 85-929; 72 Stat. 1788; 21 U.S.C., note under sec. 342) and delegated to him by the Secretary of Health, Education, and Welfare (23 F.R. 9500), hereby authorizes the use in foods of certain additives for which tolerances have not yet been established or petitions therefor denied.

Part 121 is amended by adding thereto the following new section:

§ 121.86 Extension of effective date of statute for certain specified food additives.

On the basis of data supplied in accordance with § 121.85 and findings that no undue risk to the public health is involved and that conditions exist that make necessary the prescribing of an additional period of time for obtaining tolerances or denials of tolerances or for granting exemptions from tolerances, the following additives may be used in food, under certain specified conditions, for a period of one year from March 6, 1959, or until regulations shall have been issued establishing or denving tolerances or exemptions from the requirement of tolerances, in accordance with section 409 of the act; whichever occurs first:

Product	Limits, percent	Specified uses or restrictions
Activated charcoal com- plying with specifica- tions of The National Formulary, Tenth Edi- tion.	0, 4	Pigment in food processing.
Carbon black prepared by the "impingement" or "channel" process.	0.4	Do.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the food additives amendment to the Federal Food, Drug, and Cosmetic Act were contemplated by the statute as a relief of restrictions on the food processing industry.

Effective date. This order shall be effective on the date of publication in the Federal Register.

(Sec. 701, 52 Stat. 1055; 21 U.S.C. 371. Interprets or applies 72 Stat. 1788; 21 U.S.C., note under § 342)

Dated: January 11, 1960.

[SEAL] GEO. P. LARRICK. Commissioner of Food and Drugs.

[F.R. Doc. 60-392; Filed, Jan. 14, 1960; 8:50 a.m.]

Title 26-INTERNAL REVENUE, 1954

Chapter I-Internal Revenue Service, Department of the Treasury

[T.D. 6444]

PART 301—PROCEDURE AND **ADMINISTRATION**

Miscellaneous Amendments

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 7502 of the Internal Revenue Code of 1954 to the amendment of such section made by section 89(a) of the Technical Amendments Act of 1958 (72 Stat. 1665) and under section 7512 of such Code to the amendments made by section 4 of the Tax Rate Extension Act of 1958 (72 Stat. 250) and section 131(c) of the Excise Tax Technical Changes Act of 1958 (72 Stat. 1287), and to provide regulations under section 7513 as added to the Internal Revenue Code of 1954 by section 90(a) of the Technical Amendments Act of 1958 (72 Stat. 1666), the following regulations are hereby prescribed. Except as otherwise specifically provided therein, such regulations are effective on and after August 17, 1954, and apply to taxes imposed by the Internal Revenue Code of 1939, as well as to the taxes imposed by the Internal Revenue Code of 1954.

Paragraph 1. Section 301.7502 is amended to read as follows:

§ 301.7502 Statutory provisions; timely mailing treated as timely filing.

SEC. 7502. Timely mailing treated as timely filing. * *

(c) Registered and certified mail—(1)
Registered mail. If any such claim, statement, or other document is sent by United States registered mail, such registration shall be prima facie evidence that the claim, statement, or other document was delivered to the agency, office, or officer to which addressed, and the date of registration shall

be deemed the postmark date.
(2) Certified mail. The Secretary or his delegate is authorized to provide by regulations the extent to which the provisions of paragraph (1) of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.

[Sec. 7502 as amended by sec. 89(a), Technical Amendments Act 1958 (72 Stat. 1665)]

Par. 2. Section 301.7502-1, as amended by Treasury Decision 6292, approved April 15, 1958, is further amended to read as follows:

§ 301.7502-1 Timely mailing treated as timely filing.

(c) Mailing requirements. (1) * * * (iii) (a) If the postmark on the envelope or wrapper is made by the United States Post Office, such postmark must bear a date on or before the last date. or the last day of the period, prescribed for filing the document. If the postmark does not bear a date on or before the last date, or the last day of the period, prescribed for filing the document, the document will be considered not to be filed timely, regardless of when the document is deposited in the mail. Accordingly, the sender who relies upon the applicability of section 7502 assumes the risk that the postmark will bear a date on or before the last date, or the last day of the period, prescribed for filing the document, but see subparagraph (2) of this paragraph with respect to the use of registered mail or certified mail to avoid this risk. If the postmark on the envelope or wrapper is not legible. the person who is required to file the document has the burden of proving the time when the postmark was made. Furthermore, in case the cover containing a document bearing a timely postmark made by the United States Post Office is received after the time when a document postmarked and mailed at such time would ordinarily be received, the sender may be required to prove that it was timely mailed.

- (2) If the document is sent by United States registered mail, the date of registration of the document shall be treated as the postmark date. If the document is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom such document is presented, the date of the United States postmark on such receipt shall be treated as the postmark date of the document. Accordingly, the risk that the document will not be postmarked on the day that it is deposited in the mail may be overcome by the use of registered mail or certified mail.
- (d) Delivery. (1) Section 7502 is not applicable unless the document is delivered by United States mail to the agency, officer, or office with which it is required to be filed. However, if the document is sent by registered mail or certified mail, proof that the document was properly registered or that a postmarked certified mail sender's receipt was properly issued therefor, and that the envelope or wrapper was properly addressed to such agency, officer, or office shall constitute prima facie evidence that the document was delivered to such agency, officer, or office,
- (e) Applicability—(1) General rule. Except as provided in subparagraph (2) of this paragraph, section 7502 and this section are applicable with respect to any document which is mailed and delivered in accordance with the requirements of this section and which is mailed in an envelope having a postmark bearing a date after August 16, 1954, irrespective of whether the postmark is made by the United States Post Office, and irrespective of whether the tax to which the document pertains is imposed by the Internal Revenue Code of 1954 or a prior internal revenue law.
- (2) Exception. The provisions of section 7502 and this section which specifically apply to certified mail are applicable only if the mailing occurs on or after the date of publication of these regulations in the Federal Register.

PAR. 3. Section 301.7512-1 is amended to read as follows:

§ 301.7512-1 Separate accounting for certain collected taxes.

(a) Scope. * * *

(2) The following taxes imposed by chapter 33 of the Code in respect of taxable payments made, except as otherwise specifically provided in this subparagraph, after February 11, 1958:

(i) The taxes imposed by section 4231 (1), (2), and (3) on amounts paid for admissions, and the tax imposed by section 4231(6) on amounts paid for admission, refreshment, service, or merchandise, at any roof garden, cabaret, or other similar place, to the extent that such tax on amounts paid on or after January 1, 1959, is required to be collected by the proprietor of the roof

garden, cabaret, or similar place from a concessionaire in such establishment, * . *

(iv) The tax imposed by section 4261 on amounts paid for transportation of persons and the tax imposed by section 4271 on amounts paid before August 1, 1958, for the transportation of property, and

PAR. 4. Immediately after § 301.7512-1 the following new sections are inserted:

§ 301.7513 Statutory provisions; reproduction of returns and other documents.

SEC. 7513. Reproduction of returns and other documents-(a) In general. The Secretary or his delegate is authorized to have any Federal agency or any person process films or other photoimpressions of any return, document, or other matter, and make reproductions from films or photoimpressions of any return, document, or other matter.

- (b) Regulations. The Secretary or his delegate shall prescribe regulations which shall provide such safeguards as in the opinion of the Secretary or his delegate are necessary or appropriate to protect the film, photoimpressions, and reproductions made therefrom, against any unauthorized use, and to protect the information contained therein against any unauthorized disclosure.
- (c) Use of reproductions. Any reproduction of any return, document, or other matter made in accordance with this section shall have the same legal status as the original; and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding, as if it were the original, whether or not the original is in existence.
- (d) Penalty. For penalty for violation regulations for safeguarding against unauthorized use of any film or photo-impression, or reproduction made therefrom, and against unauthorized disclosure of information contained therein, see section 7213.

[Sec. 7513 as added by sec. 90(a), Technical Amendments Act 1958 (72 Stat. 1666)]

§ 301.7513-1 Reproduction of returns and other documents.

(a) In general. The Commissioner, district directors of internal revenue, and other authorized officers and employees of the Internal Revenue Service may contract with any Federal agency or any person to have such agency or person process films and other photoimpressions of any return, statement, document. or of any card, record, or other matter, and make reproductions from such films and photoimpressions.

(b) Safeguards—(1) By private contractor. Any person entering into a contract with the Internal Revenue Service for the performance of any of the services described in paragraph (a) of this section shall agree to comply, and to assume responsibility for compliance by his employees, with the following requirements:

(i) The films or photoimpressions, and reproductions made therefrom, shall be used only for the purpose of carrying out the provisions of the contract, and information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be

necessary in the performance of the contract;

(ii) All the services shall be performed under the supervision of the person with whom the contract is made or his responsible employees:

(iii) All material received for processing and all processed and reproduced material shall be kept in a locked and fireproof compartment in a secure place when not being worked upon;

(iv) All spoilage of reproductions made from the film or photoimpressions supplied to the contractor shall be destroyed, and a statement under the penalties of perjury shall be submitted to the Internal Revenue Service that such destruction has been accomplished; and

(v) All film, photoimpressions, and reproductions made therefrom, shall be transmitted to the Internal Revenue Service by personal delivery, first-class

mail, parcel post, or express.

(2) By Federal agency. Any Federal agency entering into a contract with the Internal Revenue Service for the performance of any services described in paragraph (a) of this section, shall treat as confidential all material processed or reproduced pursuant to such contract.

(3) Inspection. The Internal Revenue Service shall have the right to send its officers and employees into the offices and plants of Federal agencies and other contractors for inspection of the facilities and operations provided for the performance of any work contracted or to be contracted for under this section.

(4) Criminal sanctions. For penalty provisions relating to the unauthorized use and disclosure of information in violation of the provisions of this section,

see section 7213(c).

(c) Legal status of reproductions. Section 7513 provides that any reproduction made in accordance with such section of any return, document, or other matter shall have the same legal status as the original and requires that any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding, as if it were the original, whether or not the original is in existence.

Because this Treasury decision relates to regulations which constitute a general statement of policy and establish rules of Departmental practice and procedure and to amendments which make only clarifying, procedural, and technical changes, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that

(68A Stat. 917; 26 U.S.C. 7805)

WILLIAM H. LOEB. Acting Commissioner of Internal Revenue.

Approved: January 11, 1960.

FRED C. SCRIBNER, Jr., Acting Secretary of the Treasury.

[F.R. Doc. 60-387; Filed, Jan. 14, 1960; 8:50 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration
PART 3—VETERANS CLAIMS

Implementation of the Provisions of the "Veterans' Pension Act of 1959"

Part 3, Chapter I of Title 38 of the Code of Federal Regulations is amended by adding a new § 3.1536 as follows:

- § 3.1536 Implementation of the provisions of the "Veterans' Pension Act of 1959."
- (a) Service requirements of deceased veterans. (1) Ninety days or more in either World War I, World War II, or the Korean conflict (for method of computing service see §§ 3.60, 4.48(a)(3), 4.49(c) and 4.50(b) of this chapter; or
- (2) A discharge or release from such service for a service-connected disability; or,
- (3) At the time of death was receiving (or entitled to receive) compensation or retirement pay based upon World War I, World War II or Korean conflict service-connected disability.

Note: The requirement is eliminated that a World War II or Korean conflict veteran be shown at the time of his death, in addition to the service requirement, to have had a service-connected disability for which compensation would have been payable if disabling to a degree of 10 percent or more.

(b) Amounts of pension payable within prescribed income limitations—
(1) Veteran—(1) With no dependents. If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension will be paid at the monthly rate set forth in column II of the following table opposite the veteran's annual income as shown in column I.

r ,		II
	Mor	ithly
If income is not over	amo	ount
\$600		\$85
1,200		70
1.800		40

(ii) With dependents. If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension will be paid at the monthly rate set forth in columns II, III or IV (depending upon the number of his dependents) of the following table opposite the veteran's annual income as shown in column I:

I	п	111	17
		Monthly amount	
If income is	One dependent	Two dependents	Three or more dependents
\$1,000 \$2,000 \$3,000	\$90 75 45	\$95 75 45	\$100 75 45

(iii) In need of aid and attendance. If the veteran is in need of regular aid and attendance, the monthly rate payable will be increased by \$70.

(iv) Reasonably contributing to support of spouse. A veteran will be paid as a person without a spouse unless he is reasonably contributing to her support. In determining whether a veteran is reasonably contributing to 'the support of his spouse all of the circumstances such as his income and estate and the separate income and estate of his spouse will be taken into consideration. In any case where a special apportionment is made the special apportionment will be considered as reasonable contribution.

(v) Income of spouse. For the purpose of counting the income of a spouse, a veteran will be considered as living with his spouse, even though they reside apart, unless they are estranged. Where a veteran is living with his spouse the total annual income of the spouse which is reasonably available to or for the veteran except \$1,200 will be considered as the income of the veteran, unless to do so would work a hardship upon the veteran. The income of the spouse will be considered as available to the veteran and counting such income will be presumed not to work a hardship upon him unless evidence is presented to rebut the presumption. Such evidence may consist of a showing that the spouse has incurred unusual family expenses as a result of sickness, hospitalization, prolonged care in a nursing home, or other unusual expenses (e.g., spouse working to help defray veteran's unusual medical expenses). However, the fact that the counting of a part of the spouse's income would reduce or deny the veteran pension will not be considered as working a hardship on him.

(2) Widow—(i) Without child. If there is no child, pension will be paid at the monthly rate set forth in column II of the following table opposite the widow's annual income as shown in column I:

(ii) With child. If there is a widow and one child, pension will be paid at the monthly rate set forth in column II of the following table opposite the widow's annual income as shown in column I:

1	ıı
	Monthly
If income is not over—	amount
\$1,000	\$75
\$2,000	60
\$3,000	40

- (iii) With more than one child. If there is a widow and more than one child, the monthly rate payable under subdivision (ii) of this subparagraph will be increased by \$15 for each additional child.
- (iv) Income of child. The separate income received by a child or children, regardless of custody, will not be considered in computing the widow's income unless given to the widow. In that case

only so much money as is left after deducting any expenses for maintenance of the child will be considered the widow's income.

(3) Child. (i) If there is no widow entitled to pension, the monthly rates payable are:

One Child_______\$35 Each Additional Child________15

- (a) If there is more than one child the total pension payable will be paid in equal shares.
- (b) Pension will not be paid to a child whose annual income, excluding earned income, exceeds \$1,800. Earned income is that derived from wages or self-employment.
- (c) Computation of annual income.
 (1) Basic rule. Total income for the full calendar year will be considered except as provided in subparagraphs (3) and (6) of this paragraph. The following inclusions apply to the income of a widow, a child where there is no veteran or widow, a veteran and his spouse.

(2) Income included.

- (i) Income of the spouse as provided in paragraph (b) (1) (v) of this section. (ii) Special allowance under 38 U.S.C.
- (iii) Except as otherwise provided in subdivisions (viii) (b) and (ix) of this subparagraph, total salary, retirement or annuity payments, or similar income, irrespective of whether a part of such benefit was waived pursuant to statute, contract, or otherwise.
- (iv) The inclusions contained in § 3.228 (c) (1).
- (v) Commercial life insurance (including Federal employees Government life insurance) consisting of lump sum or installment payments.
- (a) Commercial life insurance received by a beneficiary will be considered as income in the calendar year in which received even though the beneficiary had the right to elect a lump sum or installment payments.
- (b) Where an annuity or payment of endowment insurance is received by the purchaser, no part of the payment received will be considered annual income until the full amount of the consideration has been received after which the full amount of such payments will be considered income.

(c) Disability, accident or health insurance (less payment of medical or hospital expenses resulting from the disease or accident for which such insurance payments are made).

(vi) Where proceeds of matured life insurance policies or other income is received in one year and payments are made in the following year for just debts or expenses of last illness and burial of the veteran, retroactive adjustment of the pension award may be authorized. In other words, such payments may be offset against prior income when this is to the claimant's advantage. (See also subparagraph (3) (vii) of this paragraph.)

(vii) Compensation paid by the Bureau of Employees' Compensation, Department of Labor (of the United States). or pursuant to any workmen's compensation or employer's liability statute, or

damages collected because of personal injury or death, less medical, legal, or other expenses incident to the injury or death or the collection or recovery of such moneys. Where monthly payments of such employee's compensation are withheld until the value equals a lump sum paid as damages by a third party, the lump sum will be considered as income when actually received.

(viii) Retirement benefits paid under a Federal, State, municipal or private business or industrial plan, including Railroad Retirement and Social Security benefits (Federal Old Age and Survivors' Insurance and Disability Insurance Benefits).

(a) Where the payments received consist of part principal and part interest, interest will not be counted separately.

(b) Where the retirement benefit is based on the claimant's own employment, the payments will not be considered income until the amount of the claimant's personal contribution (as distinguished from amounts contributed by the employer) has been received. After he has received an amount equal to his personal contribution, all payments will be considered income.

(c) Benefits received by a widow based on her husband's employment will be considered income as received.

(ix) Retirement pay received direct from a service department (except amounts waived under 38 U.S.C. 3105),

- (x) Proceeds of bequests and inheritances received in the settlement of estates. However, such property, including stocks and bonds received by inheritance or otherwise, will not be considered as "annual income" until the property or other property acquired in lieu thereof by exchange or barter, has been converted into cash. Where such property is converted into cash, the amount of the claimant's personal contribution will be deducted in determining the net income.
 - (xi) Gifts.
- (xii) World war adjusted compensation.
- (xiii) Family allowances authorized by service personnel.

(xiv) Bonus or similar cash gratuity by any State based on service in the Armed Forces of the United States.

(xv) Reasonable value of allowances to a person in military or naval service in addition to base pay, such as clothing, subsistence and quarters.

(xvi) Insurance paid under the Merchant Marine Act of 1936, as amended.

(xvii) Payments under chapter 73 of Title 10 of the United States Code (formerly the Uniformed Services Contingency Option Act) (10 U.S.C. 1441).

(xviii) Subsistence allowance under Title II, Public Law 346, 78th Congress, and such education and training allowance, under 38 U.S.C. Ch. 33 as is in excess of amounts expended for training.

(xix) Overtime pay received by Government employees.

(xx) All other income not specifically excluded.

(3) Income excluded. The following exclusions apply to the income of a widow, a child where there is no veteran or widow, a veteran and his spouse:

(i) Payments of 6 months death gratuity from a service department.

(ii) Donations from public or private relief or welfare organizations. Note: This includes the value of maintenance furnished by a friend or relative or by a charitable organization (civic or governmental) and benefits such as old age assistance, aid to dependent children, aid to the needy blind.

(iii) Any compensation, pension and dependency and indemnity compensation payments by the United States Government under laws administered by the Veterans Administration except under 38 U.S.C. 412.

(iv) Payments under policies of United States Government life insurance or National Service life insurance and payments of Servicemen's Indemnity.

(v) Lump-sum death payments under Title II of the Social Security Act.

(vi) Payments to an individual under public or private retirement, annuity, endowment or similar plans or programs equal to his personal contributions thereto.

(vii) Amounts equal to amounts paid by a widow or child of a deceased veteran for:

(a) His just debts;(b) The expenses of his last illness; and

(c) The expenses of his burial to the extent such expenses are not reimbursed under 38 U.S.C. ch. 23. If a claim for burial allowance has not been made at the time the claim for pension is adjudicated, it will be assumed in determining the actual expenses that \$250 will be paid as burial allowance. Subsequent readjustment will be made if the facts indicate otherwise. (See also subparagraph (2) (vi) of this paragraph).

(viii) Proceeds of fire insurance

policies.

(4) Prompt notice of increase in income or corpus of estate, or change in status. If the claimant begins to receive additional income, the corpus of his estate increases or his status changes during a calendar year, he must immediately furnish prompt notification. If notification of increase in income or in corpus of estate is promptly received. the claimant's pension will be adjusted effective the date of last payment. If such notification is not promptly received, the adjustment will be effective the first day of January of the calendar year in which the income or net worth was increased, or the effective date of the award, whichever is later. Where change in status of dependents is involved and was reported promptly, adjustment will be effective the date of last payment or date of change in status, whichever is later; if not reported promptly, the date of change in status. The principle of § 3.228(a) (3) with respect to prempt notification, will apply.

(5) Adjustment of pension on the basis of anual income received. Where there is doubt as to the extent of anticipated income, payment of pension will be at the lowest level consistent with the report of anticipated income. Increased pension will be awarded from the first of that calendar year or from the date of entitlement, whichever is later. if notice of the claimant's actual income is received within the succeeding calendar year.

(6) Proportionate computation. (i) Income (including that of the spouse) will be computed on a proportionate basis to establish the income increment and basic rate of pension where:

(a) The income of the claimant for the calendar year exceeds \$600 or \$1,000.

whichever applies.

(1) In the claim of a veteran, where there is no entitlement from the first of the calendar year, the computation will be on a proportionate basis from the date of entitlement.

(2) In the claim of a widow or the child of a deceased veteran filed within 1 year from the date of the veteran's death, computation will be on a proportionate basis from the date of the veteran's death. If pension is payable only from the date of filing claim, the claimant's income will be computed on a proportionate basis from date of claim.

(b) Where there is a status change affecting income limitation and the income of the claimant for the calendar year exceeds \$600 or \$1,000, whichever

applies:

(1) From the date the status of a veteran changes during a calendar year from that of a married veteran (or a person who has a child or children) to that of an unmarried person (or a person who does not have a child or children).

(2) From the date the status of a veteran changes during a calendar year from that of an unmarried veteran (or a person who does not have a child or children) to that of a married person (or a person who has a child or children).

(3) From the date the status of a widow changes during a calendar year from that of a widow and a child to that of a widow without a child.

(4) From the date the status of a widow changes during a calendar year from that of a widow without a child to that of a widow and a child.

(5) In determining entitlement under the circumstances outlined in subdivisions (1) through (4) of this subdivision, the proportionate computations will be applied to each period separately and will not be combined to afford a total applicable to the entire calendar year. The amount of income received within each separate period will determine entitlement to pension for that period.

(ii) If the claimant's total income for the calendar year is less than \$600 or \$1,000, whichever applies, the date of receipt of such income is not a factor and income will not be computed proportionately for only part of a year.

(iii) Where a beneficiary who is receiving pension under the prior law, elects to receive pension under Public Law 86-211 his pension rate will be based upon his annual income for the entire calendar year 1960.

(d) Corpus of estate. Payment of pension will not be authorized when the corpus of estate is such that under all the circumstances including consideration of income, it is reasonable that some part of the corpus be consumed for maintenance. This limitation applies to the estate of a veteran, widow or a child where there is no veteran or widow.

(1) Principles of measurement of corpus of estate. The term corpus of estate means the net worth of all real

- and personal property.
 (i) Property which is owned jointly by the veteran and his wife—(a) Real property. The recorded deed or other evidence of title will constitute prima facie evidence of ownership as shown. In the event both husband and wife appear as owners, whether by purchase, gift, inheritance or operation of law it will be presumed that each owns onehalf. The veteran's statement as to the nature and type of ownership will be accepted as prima facie evidence of the pertinent facts stated unless all the evidence of record raises a doubt. If such evidence raises a doubt as to the nature and type of ownership, the determination will be made in accordance with the facts found.
- (b) Personal property. All personal property, the title to which is in the name of the veteran, or in his name jointly with his wife, which is subject to disposition by him without joinder of his wife, will, for the purpose of determining the corpus of the veteran's estate, be considered the property of the veteran.

(ii) If the veteran owns property in partnership, the portion to be counted as part of the veteran's estate will be

determined by the facts.

- (iii) Where there is a veteran, wife and/or child or children, the corpus of the veteran's estate only will be considered; the corpus of the estate of the wife and/or child or children will not be considered. Where there is a widow and child or children the corpus of the widow's estate only will be considered; the corpus of the estate of the child or children will not be considered. Where there is a child or children only the corpus of the estate of the child or children will be considered.
- (2) Factors for consideration. ment will be exercised in individual cases in determining whether the corpus of the claimant's estate is such that it is reasonable to assume that part of it should be consumed for his maintenance before pension would be payable. Items to be considered in determing whether part of the corpus of the estate should be consumed before pension eligibility is established include:
- (i) Type and amount of property involved. Whether the property can be readily converted into cash at no substantial sacrifice to the claimant. claimant will not be expected to sell his dwelling (single family unit). Generally ownership of nonincome producing realty will not bar payment of pension unless there is a sizeable amount. Stocks, bonds, other liquid securities and cash and savings accounts will be measured against the needs of the claimant.
- (ii) Age of the claimant and life expectancy. If the claimant is young, it will be considered that consumption of part of the estate would be more burdensome than in the case of an older claimant since with greater life expectancy need for a greater estate is demonstrated.

(iii) The state of health of the claimant and his dependents. It can readily be seen if large medical and hospital expenses are to be anticipated that the potential rate of depletion may preclude liquidation of part of the estate.

(iv) Number of persons dependent on claimant for support. Here too, the obligations of the claimant on those dependent upon him for support would have an important bearing on the determination as to whether it would be reasonable that part of the estate be consumed before awarding pension.

- (v) Estate as related to income. If. in addition to his estate, the claimant has sizeable income (though still within the income limits) this fact together with the size and nature of his estate will be considered. Attention should be given to claimed expenses and if unusual expenses, especially medical, hospital and education, are encountered, this will be carefully weighed.
- (e) Adjustment of pension where veteran is in a Veterans Administration institution, or other institution at the expense of the Veterans Administration (including domiciliary care).

Note: This paragraph applies only to veterans receiving pension under Public Law 86-211 and Spanish-American War veterans who are first awarded pension effective after June 30, 1960.

- (1) Reduction of pension. Upon receipt of VA Form 21-404, any running award of pension, except where the veteran is receiving care or treatment for Hansen's disease, will be reduced to \$30 per month effective:
- (i) The first day of the month following 2 full calendar months of care or treatment after the month of admission, or Öctober 1, 1960, whichever is later.
- (ii) The day of admission or readmission (including readmission from completion of bed occupancy care status) within 6 months following a period of care or treatment of not less than 2 full calendar months after July 1, 1960, or.
- (iii) The day of return from furlough or leave of absence of 30 days, readmission from trial visit, or completion of bed occupancy care, where a previous reduction has been made under Public Law

Note: Periods of treatment or care prior to July 1, 1960, will not be considered under Public Law 86-211.

The date of October 1, 1960, is predicated upon a constructive admission on July 1, 1960, with respect to a veteran receiving pension on June 30, 1960, and who is awarded pension effective July 1, 1960. under Public Law 86-211 because of his election. Where a hospitalized or institutionalized veteran is awarded pension under Public Law 86-211 on the basis of a new claim with an effective date subsequent to July 1, 1960, the period of treatment or care subsequent to June 30, 1960, will be counted even though all or a part of it was before the effective date of his award. However, where a hospitalized or institutionalized veteran elects to receive pension under Public Law 86-211 and the effective date of his election is subsequent to July 1, 1960 the period of treatment or care prior to the effective date of his election will

not be counted; his pension will be reduced to \$30 monthly effective the first day of the month following 2 full calendar months of care or treatment after the month of election.

- (2) Aid and attendance. The allowance for regular aid and attendance will be continued during periods of treatment or care where the disability is paraplegia involving paralysis of both lower extremities together with loss of anal and bladder sphincter control, Hansen's disease, blindness (visual acuity 5/200 or less or concentric contraction of visual field to 5 degrees or less). These awards are, however, subject to reduction under subparagraph (1) of this paragraph except where the disabling condition is Hansen's disease.
- (3) Apportionment to wife or children. Where the pension of any veteran is reduced under the provisions of subparagraph (1) of this paragraph, an apportionment may be made to his wife and/or children effective the date his pension was reduced. The amount of the apportionment generally will be the difference between \$30 and the rate payable during the first 2 months of treatment or care. In the exceptional case where claims file evidence clearly establishes materially reduced need on the part of wife or children (example, veteran is already contributing a reasonable amount for an estranged wife) no apportionment or apportionment in a reduced amount will be made in accordance with the facts found. In no event will the veteran be paid more than \$30 monthly while hospitalized. If there is a child or children but no wife VA Form 21-592 together with the Cfolder will be forwarded to the Chief Attorney informing him that an apportioned award is contemplated and of the amount and effective date. Upon receipt of a reply from the Chief Attorney, payments will be made to the flduciary appointed by a court or, in the absence of such, one designated by him, If there is a wife and child or children and the children are not in the custody of the wife, the case will be further developed and in addition to the wife's share an apportionment made to the custodian of the children who is recognized by the Chief Attorney. The amount of apportionment for the children will depend upon the equities presented.
- (4) Apportionment to dependent parents. Where an incompetent veteran having neither wife nor child is receiving care or treatment by the Veterans Administration and his estate exceeds \$1,500, an apportionment to his dependent parents under Public Law 86-146 (38 U.S.C. 3203(b)(3)) may not exceed \$30 monthly, after 2 full calendar months of treatment or care in Public Law 86-211 cases.
- (5) Restoration of pension upon termination of treatment or care. Where a veteran whose pension has been reduced under subparagraph (1) of this paragraph is released from treatment or care the apportionment to his wife or children will be discontinued effective the day before his release. The veteran will be awarded the full amount of pen-

sion to which he is then entitled from the date of release. If the VA Form 21-404 is not received in sufficient time to effectuate the adjustments without creating an overpayment in the apportioned award, the apportionment will be discontinued effective the date of last payment and the veteran awarded his full entitlement effective the day following the date of last payment. (The reduction in pension after 2 months is an absolute reduction as distinguished from a withholding and no lump sum is payable upon release.)

(f) Right of election—(1) General. A statement in writing, signed by the beneficiary (or fiduciary), will be accepted as a valid election. The election may be deferred and exercised at any future date. Action may not be taken to award pension at the new rates un-

til receipt of an election.

(2) Finality of election. An election of pension under Title 38, United States Code, as amended by Public Law 86-211 is final and irrevocable after a pension check received thereunder is negotiated. thereby prohibiting a subsequent re-election of pension under Title 38, United States Code prior to this enactment.

(3) Exercise of right of election and its effect. Only veterans, widows, or children where there is no widow (or their fiduciaries), may make an election and such election controls the rights of all dependents, including children not in the veteran's or widow's custody. However in an apportioned death pension case, the election by the widow will not be permitted to deprive children not in her custody of the present rate of pension and the letter to the widow will include the information that her share will be reduced by the amount necessary to maintain such child's apportioned share at the current rate if she insists upon the election.

(4) Minors and incompetents. election may be made by a fiduciary appointed by a court or, in the absence of such, one designated by a Chief Attorney, including a wife who is being paid under § 13.201. However, an election may not be made by a Manager or chief officer of a hospital or institution who is receiving payment on behalf of

an incompetent veteran.

(5) Effective dates. When an election is received on or before July 1, 1960, the effective date of the new rate will be July 1, 1960. If an election is received subsequent to July 1, 1960, the new pension rate will be awarded effective the date of receipt of the election. except where death occurs prior to July 1. 1960, claim is filed within 1 year after death and the election is filed within 4 months from date of notice of award, the effective date of the new pension rate will be July 1, 1960. Claimants who were not receiving pension when VA Form 21-6799(NR) was sent as an enclosure with the pension checks mailed the latter part of February 1960 and whose entitlement includes eligibility to pension on June 30, 1960, will be given 4 months from the date of notice of their award within which to elect pension under Public Law 86--211. If an election is received within this 4-month period, pension under Public Law 86-211 may be paid from July 1, 1960. In those cases where a wife or child is alleged on the application and evidence establishing relationship or birth is received within 1 year from the date of request, pension or increased pension will be awarded effective the date of the original award. Where no election form is sent to a hospitalized incompetent veteran, and a fiduciary is appointed or the veteran is rated competent, pension may be paid from the date of hospital discharge but not prior to July 1, 1960, if an election is received within 4 months from the date of the letter informing the fiduciary or the veteran of the right of election.

(g) Adjustment of payments by amended award on VA Form 21-553 or VA Form 21-519a—(1) Apportioned cases—(i) Veteran cases. Where there is an apportionment of an incompetent veteran's pension under § 3.310, the increase will be awarded to the dependent or dependents only. In specially apportioned cases, the increase will be awarded to the veteran only, unless the equities indicate otherwise, in which event the pension will be reapportioned.

(ii) Widow cases. Where there is an apportionment of a widow's pension under the provisions of Title 38, United States Code, as amended by Public Law 86-211, the widow's share will be the monthly rate set forth in column II of the following table opposite the widow's annual income as shown in column I:

1 Monthly rate If income is not of apportionment over— _____ \$45 \$1,000____ \$2,000______36 \$3,000________24

Where death pension has been specially apportioned, the increase will be awarded to the widow unless the equities require a reapportionment.

(2) Imprisoned claimants. Where an apportionment is being made to an imprisoned veteran's wife and/or child the right to elect pension under Public Law 86-211 is vested in the veteran only. The amount may not exceed the death or disability (whichever is the lesser) rate payable under 38 U.S.C. 521 or 38 U.S.C. 541, as amended by Public Law 86-211. If the veteran is unmarried and has no child or if he has a wife and/or child but they are ineligible for an apportionment on June 30, 1960, because need (as established by income limitations for death pension under this law) is not shown or for any other reason the veteran has no right of election since he was not receiving or entitled to receive pension on June 30, 1960. If he becomes eligible for pension upon his release from imprisonment on or after July 1, 1960, he will be awarded this benefit only under Public Law 86-211. The foregoing also applies to imprisoned wives or children. However, where a child is receiving pension because the widow is imprisoned, the right of election is vested in the widow only even though a guardian is receiving payments for the child.

(h) Savings provisions. Section 9, Public Law 86-211, provides that any person entitled to benefits on June 30,

1960, may receive those benefits for such periods thereafter for which he qualifies under Title 38, United States Code, in effect on that date. This protective clause is to be interpreted so as to preclude denial, reduction, or discontinuance of payments because of Public Law 86-211 to any veteran, widow or child entitled to benefits on June 30, 1960, by virtue of laws then in effect. In those cases in a deferred status on June 30, 1960, until actual income for 1960 is determined, the claimant will be afforded the protection of section 9, if it is subsequently found that there is entitlement to benefits on June 30, 1960. Protection is accorded in those cases in which a veteran in receipt of pension on June 30, 1960, is found to be not permanently and totally disabled after that date, but who is subsequently again rated as permanently and totally disabled. same rule applies where income becomes a bar after June 30, 1960. The protective provision is for application only in those cases in which no election under Public Law 86-211 is made. However, a claimant whose pension was discontinued for any reason prior to July 1, 1960, and who was not entitled on June 30, 1960, but who becomes entitled after that date may be awarded pension only under the provisions of Public Law 86-211. Claimants who elect benefits under Public Law 86-211 and are paid under it are subject to all of its provisions. (Instruction 1, Title 38, United States Code, chapters 15 and 55, Public Law 86-211).

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective July 1, 1960.

[SEAL]

BRADFORD MORSE, Deputy Administrator.

[F.R. Doc. 60-389; Filed, Jan. 14, 1960; 8:50 a.m.]

PART 3-VETERANS CLAIMS

Presumption of Service Connection for Multiple Sclerosis

Part 3. Chapter I of Title 38 of the Code of Federal Regulations is amended by adding a new § 3.1537 as follows:

§ 3.1537 Presumption of service connection for multiple sclerosis under 38 U.S.C. 312(4), as amended by Public Law 86-187.

(a) Provisions of the law. The law amends section 312(4) of Title 38, United States Code by 'striking out "two" and inserting in lieu thereof "three." Section 312 thus reads in pertinent part:

For the purposes of section 310 of this title. and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war-

(4) Multiple sclerosis developing a 10 per centum degree of disability or more within three years from the date of separation from such service:

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

(b) Effect of the act. The law extends the presumptive period for service connection from 2 to 3 years. It is applicable to both disability and death claims where there is wartime service.

(c) Effective date. The date of enactment of this act was August 25, 1959. No benefit based solely on the liberalizing provisions of this law may be made effec-

tive prior to date of enactment.

(1) Pending claims. The effective date of an award as to a claim pending on the date of enactment will be August 25, 1959, if evidence otherwise establishes entitlement on that date. Pending claims will include:

(i) A claim not previously adjudicated.
(ii) A previously disallowed claim pending consideration on appeal.

(iii) A previously disallowed claim reopened by the receipt of any claim, evidence or inquiry on which action was pending on date of enactment.

(iv) A previously disallowed claim reopened by the receipt of any claim, evidence or inquiry after date of enactment

but within the appeal period.

(2) New claims. All other claims, formal or informal, received on or after August 25, 1959, will be considered initial claims for the purpose of this law and the effective date will be determined under applicable laws and regulations relating to original claims but not earlier than August 25, 1959. (Instruction 1, 38 U.S.C. 312(4), Public Law 86–187).

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective January 15, 1960.

[SEAL]

BRADFORD MORSE, Deputy Administrator.

[F.R. Doc. 60-388; Filed, Jan. 14, 1960; 8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications
Commission

PART 6—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Miscellaneous Amendments

In the matter of amendment of Part 6 (International Fixed Public Radio-communication Services), and Part 21 (Domestic Public Radio Services (Other Than Maritime Mobile)), of the Commission's rules and regulations to effect certain editorial changes therein.

1. The Commission has under consideration the desirability of making certain editorial changes in Parts 6 and 21

of its Rules and Regulations.

- · 2. Upon review of the provisions of Parts 6 and 21, the Commission believes that the editorial changes set forth in the appendix hereto should be adopted. In general, these amendments correct typographical errors, omissions, grammar, and delete obsolete deadlines.
- 3. The amendments adopted herein are principally editorial in nature and

to the extent that they are not purely editorial are such that no regulatory changes are effected thereby. Therefore, prior publication of Notice of Proposed Rule Making pursuant to the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately.

- 4. The amendments adopted herein are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.341(a) of the Commission's rules (Statement of Organization, Delegations of Authority and Other Information).
- 5. In view of the foregoing: It is ordered, This 12th day of January 1960, that effective January 20, 1960, Part 6, "International Fixed Public Radiocommunication Services" and Part 21, "Domestic Public Radio Services (Other Than Maritime Mobile)" of the Commissión's rules and regulations are amended as set forth below.

Released: January 12, 1960.

[SEAL]

Federal Communications Commission Mary Jane Morris, Secretary.

A. Part 6—International Fixed Public Radiocommunication Services.

1. Section 6.20(a) is amended by adding "Fixed Public and" in the first sentence, as follows:

§ 6.20 Assignment of frequencies.

- (a) Only those frequencies which are in accordance with § 2.104 of this chapter may be authorized for use by stations in the Fixed Public and Fixed Public Press services. Selection of specific frequencies within such bands shall be made by the applicants therefor. After an application has been filed with the Commission for a particular frequency, its availability for assignment as requested will be determined by study of the probabilities of interférence to and from existing services assigned on the same or adjacent frequencies and if necessary, by coordination with other agencies utilizing frequencies in these ranges. The applicant will be notified of the results of such study and coordination. All new assignments of frequencies may be made subject to certain conditions as may be required to minimize the possibility of harmful interference to existing services.
- 2. Delete undesignated subheading "Additional Provisions; Fixed Public and Fixed Public Press Services" preceding \$ 6.51.
- B. Part 21—Domestic Public Radio Services (Other Than Maritime Mobile).
- 1. Section 21.1 is amended by revising the definition of *Control station* to read as follows:

§ 21.1 Definitions.

Control station. A fixed station whose transmissions are used to control automatically the emissions or operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the operation of such station.

2. Section 21.15(n)(2) is amended to read as follows:

§ 21.15 Contents of applications.

- (2) In cases where it is proposed to locate a 72-76 Mc fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either Channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, a showing shall be made as to the number of family dwelling units (as defined by the United States Bureau of Census) located within a circle centered at the location of the proposed fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted) the radius of which shall be determined by use of the charts entitled, "Chart for Determining Radius From Fixed Station in 72-76 Mc Band to Interference Contour Along Which 10 Percent of Service From Adjacent Channel Television Station Would Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 21.103).
- 3. Section 21.30(a) is amended to read as follows:

§ 21.30 Period of construction.

- (a) Except for stations in the Pointto-Point Microwave Radio Service, and except as may be limited by § 21.32(b), each construction permit for a radio station in the Domestic Public Radio Services will specify a maximum of 60 days from the date of grant thereof as the time within which construction of the station shall begin, and a maximum of eight months from the date of grant as the time within which construction shall be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case (see §§ 21.29(d) and 21.31(a)).
- 4. Section 21.32(a) is amended to read as follows:

§ 21.32 License period.

(a) Licenses for stations in the Pointto-Point Microwave Radio and Local Television Transmission Services will be issued for a period not to exceed five years; licenses for stations in the Domestic Public Land Mobile Radio and Rural Radio Services will be issued for a period not to exceed three years; except that licenses for developmental stations will be issued for a period not to exceed one year." The expiration date of licenses of miscellaneous common carriers in the Domestic Public Land Mobile Radio Service shall be the first day of April in the year of expiration; the expiration date of licenses of telephone company common carriers in the Domestic Public Land Mobile Radio Service shall be the first day of July in the year of expiration; the expiration date of licenses in the Rural Radio Service shall be the first day of November in the year of expiration; the expiration date of licenses in the Point-to-Point Microwave Radio and Local Television Transmission Services shall be the first day of February in the year of expiration; and the expiration date of developmental licenses shall be one year from the date of grant thereof. When a license is granted sub-sequent to the last renewal date of the class of license involved, the license shall be issued only for the unexpired period of the current license term of such class.

- 5. Section 21.120(a) is amended to read as follows:
- § 21.120 Type acceptance of transmitters.
- (a) Except for transmitters used at developmental stations, each transmitter shall be of a type which has been type accepted by the Commission for use under the applicable rules of this part.
- 6. Section 21.509(g) is amended to read as follows:
- § 21.509 Permissible communications.
- (g) The base and mobile station facilities authorized in this service shall not be used in connection with any taxicab operations wherein the licensee is directly or indirectly interested through stock ownership or otherwise.
- 7. Section 21.511(b) is amended to read as follows:
- § 21.511 Communication service to own mobile units.
- (b) Wire-line communication common carriers may be authorized to es-

tablish land mobile radio facilities under this part of the rules for the purpose of providing communication facilities for their own use incident to construction and maintenance of public communication facilities: Provided however, That the use of the authorized facilities on such frequencies shall be on a secondary basis and subject to use by public subscribers at any time when required for the rendition of public communication service:

8. Section 21.604(a) is amended by revising the text preceding the table to read as follows:

§ 21.604 Emission limitations.

- (a) Except as provided in subparagraph (1) of this paragraph, the maximum authorized bandwidth of emission and, for the cases of frequency or phase modulated emissions, the maximum authorized frequency deviation shall be as follows:
- 9. Section 21.608(b) is amended to read as follows:
- § 21.608 Supplementary showing required with application for interoffice stations.

*

(b) Where specific information required by paragraph (a) of this section has been submitted in connection with applications filed under Part 63 of this chapter, duplication of information in support of applications submitted pursuant to this part is not required provided appropriate references are made therein. After an application for the initial establishment of a radio station or for the addition of transmitters on an existing system has been granted, and where the number of communication circuits (i.e., telephone, telegraph, etc.) is to be expanded without otherwise affecting the terms of the applicable radio station authorization, authority to install necessary channelizing equipment shall be secured by an application filed pursuant to section 214(a) of the Communications Act of 1934, as amended. and Part 63 of the Commission's rules and regulations, in those cases where the applicant is subject to the provisions of section 214.

10. Section 21.703(e) is amended to read as follows:

§ 21.703 Bandwidth and emission limitations.

(e) The maximum bandwidths which will normally be authorized for single channel operation on frequencies below 500 Mc in this service shall not exceed the limits set forth below:

/	Authorized
	bandwidth
Type of emission:	(kc)
A1	1
A2	3
A3	8
A4	12
F1	3
F2	3
F3	40
F4	40

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[F.R. Doc. 60-399; Filed, Jan. 14, 1960; 8:51 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service [26 CFR Parts 29, 39] INCOME AND EXCESS PROFITS **TAXES**

Notice of Proposed Rule Making

Proposed amendment of regulations 118 and regulations 111 to conform such regulations to sections 92 and 103 (a) and (c) of the Technical Amendments Act of 1958, to the Act of January 28, 1956 (Public Law 397, 84th Cong., 70 Stat. 7), and to Section 3 of the Act of June 29, 1956 (Public Law 629, 84th Cong., 70 Stat. 405).

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the

Commissioner of Internal Revenue, At- Law 629, 84th Cong., 70 Stat. 405), such tention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 3791 of the Internal Revenue Code of 1939 (53 Stat. 467; 26 U.S.C. 3791).

DANA LATHAM, Commissioner of Internal Revenue.

In order to conform Regulations 118 (26 CFR (1939) Part 39) and Regulations 111 (26 CFR (1939) Part 29), relating to income taxes, to sections 92 and 103 (a) and (c) of the Technical Amendments Act of 1958 (72 Stat. 1667, 1675), to the Act of January 28, 1956 (Pub. Law 397, 84th Cong., 70 Stat. 7), and to the Act of June 29, 1956 (Pub.

regulations are amended as follows:

REGULATIONS 118

PARAGRAPH 1. The following is inserted immediately after paragraph (c) (3) of § 39.22(o)-1:

§ 39.22(p) Statutory provisions; income taxes paid under contract.

Sec. 22. Gross income. * * *

- (p) Income taxes paid under contract by one corporation for another corporation.
- (1) A contract was entered into before January 1, 1952.
- (2) Under the contract, one party (here-inafter referred to as the "payor") is obligated to pay, or to reimburse another party (hereinafter referred to as the "payee") for any part of the tax imposed by this chapter on the payee with respect to the income derived under the contract by the payee from the payor, and
- (3) Both the payor and the payee are corporations, then gross income of the payee shall not include any such payment or reimbursement other than the payment or reimbursement of the tax imposed by this chapter on the payee with respect to the income derived under the contract by the payee from the payor, determined without the inclusion of any such payment of reimbursement in gross income, and a deduc-

tion for all such payments or reimbursements shall be allowed to the payor but only to the extent that any such payment or reimbursement is attributable to an amount paid by the payor to the payee under the contract (other than any payment or reimbursement of the tax imposed by this chapter) which is allowable as a deduction to the payor. For purposes of this subsection, a contract shall be considered to have been entered into before January 1, 1952, if it is a renewal or continuance of a contract entered into before such date and if such renewal or continuance was made in accordance with an option contained in the contract on December 31, 1951. For purposes of this subsection, a contract includes a lease.

[Sec. 22(p) as added by sec. 92, Technical Amendments Act of 1958 (72 Stat. 1667)]

SEC. 92. INCOME TAXES PAID UNDER CONTRACT [TECHNICAL AMENDMENTS ACT OF 1958, APPROVED SEPTEMBER 2, 1958]

- (a) Amendment of 1939 Code. Section 22 of the Internal Revenue Code of 1939 is amended by adding after subsection (o) the following new subsection:
- (p) Income taxes paid under contract by one corporation for another corporation.
- (b) Effective date, etc. The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1951, to which the Internal Revenue Code of 1939 applies. If refund or credit of any overpayment resulting from the application of the amendment made by subsection (a) of this section is prevented on the date of the enactment of this Act, or within 6 months from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939 or section 7121 of the Internal Revenue Code of 1954, relating to closing agreements, and other than section 3761 of the Internal Revenue Code of 1939 or section 7122 of the Internal Revenue Code of 1954, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within 6 months from such date. No interest shall be paid on any overpayment resulting from the application of the amendment made by subsection (a) of this section.
- Par. 2. The following is inserted immediately after paragraph (c)(2) of § 39.115(m)-1;

§ 39.115(n) Statutory provisions; certain distributions in kind.

SEC. 115. Distributions by corporations.

- (n) Certain distributions in kind. Notwithstanding any other provision of this section, a distribution of property by a corporation to its stockholders, with respect to its stock, shall be (except as provided in paragraph (2)) considered to be a distribution which is not a dividend (whether or not otherwise a dividend) to the extent that the fair market value of such property exceeds the earnings and profits of such corporation accumulated after February 28, 1913, and the earnings and profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions, except those described in subparagraphs (A), (B), and (C) of paragraph (3), made during the taxable year) without regard to the amount of the earnings and profits at the time the distribution was made. The preceding sentence shall not prevent the application of subsection (d) to any such distribution.
- (2) If any portion of a distribution of property by a corporation to its shareholders, with respect to its stock, is a dividend solely

by reason of the last sentence of subsection (a), then—

(A) Paragraph (1) shall not apply to such distribution, but

(B) Such distribution shall be considered to be a distribution which is not a dividend (whether or not otherwise a dividend) to the extent that the fair market value of such property exceeds the Subchapter A net income referred to in the last sentence of subsection (a), adjusted as provided in such sentence.

In applying this paragraph, distributions described in subparagraphs (A), (B), and (C) of paragraph (3) shall be taken into account before other distributions.

(3) This subsection shall apply to any distribution of property other than—

(A) Money.

(B) Inventory assets, as defined in section 312(b)(2) of the Internal Revenue Code of 1954, or

(C) Distributions described in section 312 (j) of the Internal Revenue Code of 1954.

[Sec. 115(n) as added by sec. 3, Pub. Law 629, 84th Cong. (70 Stat. 405)]

- Sec. 3. Certain Distributions in Kind [Act of June 29, 1956 (Pub. Law 629, 84th Cong., 70 Stat. 405)]
- (a) Section 115 of the Internal Revenue Code of 1939 (relating to distributions by corporations) is hereby amended by adding at the end thereof the following new subsection:
 - (n) Certain distributions in kind. * * *
- (b) The amendment made by this section to section 115 of the Internal Revenue Code of 1939 shall be effective as if it were a part of such section on the date of enactment of the Internal Revenue Code of 1939, except that it shall not apply to any taxable year of a shareholder which was a corporation and which filed a return for such year reporting dividends in accordance with publicly announced litigation policies of the Secretary or his delegate which had not been revoked at the time such return was filed. No interest shall be allowed or paid in respect of any overpayment of tax resulting from the amendment made by this section.

§ 39.131(b)-1 [Amendment]

Par. 3. The parenthetical clause in the first sentence of paragraph (a) of § 39.131(b)-1 is amended to read as follows: "including the taxes which, in accordance with the provisions of section 131 (e) and (f), are deemed to have been paid or accrued)".

§ 39.131(e) [Amendment]

Par. 4. Section 39.131(e) is amended by adding at the end of subsection (e) of section 131 the following new sentence and historical note:

For the purposes of this section, the recipient of a royalty or other amount paid or accrued as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property, and derived from sources within the United Kingdom of Great Britain and Northern Ireland, shall be deemed to have paid or accrued any income, war-profits, and excess-profits taxes paid or accrued to the United Kingdom with respect to such royalty or other amount (including the amount by which the payor's United Kingdom tax was increased by inability to deduct such royalty or other amount) if such recipient elects to include in its gross income the amount of such United Kingdom tax.

[Sec. 131(e) as amended by sec. 103(a), Technical Amendments Act 1958 (72 Stat. 1675)] Par. 5. There is inserted immediately following § 39.131(e)-1 the following new section:

- § 39.131(e)-2 Credit for United Kingdom income taxes paid with respect to royalties.
- (a) General rule. (1) For taxable years beginning before January 1, 1954, and for taxable years beginning after December 31, 1953, but ending before August 17, 1954, the taxes deemed to have been paid or accrued under subparagraph (2) of this paragraph by a taxpayer are taxes for which a credit is allowable under section 131.
- (2) A taxpayer who has received a royalty (as defined in paragraph (b) of this section) derived from sources within the United Kingdom of Great Britain and Northern Ireland is deemed to have paid or accrued any income, war-profits, or excess-profits taxes paid or accrued to the United Kingdom with respect to such royalty (including the amount by which the payor's United Kingdom tax was increased by inability to deduct such royalty), but only if the taxpayer elects to include in his gross income the amount of such United Kingdom tax. The election provided for in section 131(e) and this subparagraph shall apply only to amounts that are not otherwise includible in gross income under chapter 1.

(3) The credit under this section for taxes deemed paid or accrued with respect to a royalty is allowable in the taxable year in which, under the method of accounting used by the taxpayer, the royalty is includible in his gross income.

- (4) Under section 131(f) a taxpayer shall not be deemed to have paid any taxes with respect to which a credit is allowable to such taxpayer or any other taxpayer by virtue of the provisions of section 131(e).
- (5) No interest shall be allowed or paid on any overpayment resulting from the application of section 131(e).
- (b) Definition of "royalty". For the purposes of this section, the term "royalty" means a royalty or other amount paid or accrued as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property.
- (c) *Illustrations*. This section may be illustrated by the following examples:

Example (1). A, a resident of the United Kingdom, has agreed to pay B, a resident of the United States, a royalty of \$1,000 per year for the use in the United Kingdom of a patent. At all pertinent times, B is engaged in a trade or business in the United Kingdom, through a permanent establishment therein. B computes his taxable income under the cash receipts and disbursements method and files his Federal income tax returns on the calendar year basis. Assume that the United Kingdom standard tax rate is 45 percent and assume further that in 1952 A pays the yearly royalty to B and that such royalty is payable wholly out of profits or gains brought into charge to tax within the meaning of the United Kingdom Under such circumstances, A is not entitled to a deduction for the royalty in computing his United Kingdom income taxes but may withhold the amount of \$450 from the royalty as reimbursement for being denied a deduction. Although B will receive

only \$550 in 1952, he may include in his gross income for that year the full \$1,000 on account of the royalty, instead of just the \$550 received and, subject to the limitations contained in section 131, may obtain a credit for the \$450 withheld by A. Furthermore, the result would be the same if, under United Kingdom law, the \$450 was withheld as tax payable to the United Kingdom by reason that the royalty was not payable out of profits or gains brought into charge to tax.

Example (2). Assume the same facts as

stated in example (1), except that the \$550 is received by B in 1952 under a "net royalty" agreement. Under such circumstances, B may include in his gross income \$1,000 on account of the royalty and, subject to the limitations contained in section 131, may obtain a credit for \$450.

PAR. 6. Section 39.311 is amended-

- (A) By inserting "(A)" after "(4)" in subsection (b) (4) thereof.
- (B) By adding at the end of subsection (b) (4) thereof the following:
- (B) For the purpose of determining the period of limitation on credit or refund to the transferee or fiduciary of-

(i) Overpayments of tax made by such

- transferee or fiduciary, or
 (ii) Overpayments of tax made by the
 transferor of which the transferee or fiduciary is legally entitled to credit or refund,
- the agreement referred to in subparagraph (A) and any extension thereof shall be deemed an agreement and extension thereof referred to in section 322(b)(3).
- (C) If the agreement referred to in subparagraph (A) is executed after the expira-tion of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, then, in applying the limitations under section 322(b)(3) on the amount of the credit or refund, the periods specified in section 322(b)(3) shall be increased by the period from the date of such expiration to the date of the agreement.
- (C) By adding at the end thereof the following:

[Sec. 311 as amended by Pub. Law 367, 84th Cong. (70 Stat. 7)]

SEC. 2. [ACT OF JAN. 28, 1956 (PUB. LAW 397, 84TH CONG., 70 STAT. 7)]

This Act shall be effective in all circumstances in which it would have been effective if it had been enacted on August 17, 1954.

REGULATIONS 111

- Par. 7. There is inserted immediately preceding § 29.115-1 the following:
- SEC. 3. CERTAIN DISTRIBUTIONS IN KIND. [ACT OF JUNE 29, 1956 (PUB. LAW 629, 84TH CONG., 70 STAT. 405)
- (a) Section 115 of the Internal Revenue Code of 1939 (relating to distributions by corporations) is hereby amended by adding at the end thereof the following new sub-
- (n) Certain distributions in kind-(1) Notwithstanding any other provision of this section, a distribution of property by a corporation to its stockholders, with respect to its stock, shall be (except as provided in paragraph (2)) considered to be a distribution which is not a dividend (whether or not otherwise a dividend) to the extent that the fair market value of such property exceeds the earnings and profits of such corporation accumulated after February 28, 1913, and the earnings and profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions, except those described in subparagraphs (A), (B), and (C) of para-

graph (3), made during the taxable year) without regard to the amount of the earnings and profits at the time the distribution was made. The preceding sentence shall not prevent the application of subsection (d) to any such distribution.

(2) If any portion of a distribution of property by a corporation to its shareholders, with respect to its stock, is a dividend solely by reason of the last sentence of subsection (a), then-

(A) Paragraph (1) shall not apply to such

distribution, but

(B) Such distribution shall be considered to be a distribution which is not a dividend (whether or not otherwise a dividend), to the extent that the fair market value of such property exceeds the Subchapter A net income referred to in the last sentence of subsection (a), adjusted as provided in such sentence.

In applying this paragraph, distributions described in subparagraphs (A), (B), and (C) of paragraph (3) shall be taken into account before other distributions.

(3) This subsection shall apply to any distribution of property other than-

(A) Money,

- (B) Inventory assets, as defined in section 312(b) (2) of the Internal Revenue Code of 1954, or
- (C) Distributions described in section 312 (j) of the Internal Revenue Code of 1954.
- (b) The amendment made by this section to section 115 of the Internal Revenue Code of 1939 shall be effective as if it were a part of such section on the date of enactment of the Internal Revenue Code of 1939, except that it shall not apply to any taxable year of a shareholder which was a corporation and which filed a return for such year reporting dividends in accordance with publicly announced litigation policies of the Secretary or his delegate which had not been revoked at the time such return was filed. No interest shall be allowed or paid in respect of any overpayment of tax resulting from the amendment made by this section.
- PAR. 8. There is inserted immediately preceding § 29.131-1 the following:
- SEC. 103. FOREIGN TAX CREDIT FOR UNITED KINGDOM INCOME TAX PAID WITH RESPECT TO ROYALTIES, ETC. [TECHNICAL AMEND-MENTS ACT OF 1958, APPROVED SEPTEMBER 2,
- (a) Credit under 1939 Code. Section 131 (e) of Internal Revenue Code of 1939 (relating to the foreign tax credit) is hereby amended by adding at the end thereof the following new sentence: "For the purposes of this section, the recipient of a royalty or other amount paid or accrued as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property, and derived from sources within the United Kingdom of Great Britain and Northern Ireland, shall be deemed to have paid or accrued any income, war-profits, and excess-profits taxes paid or accrued to the United Kingdom with respect to such royalty or other amount (including the amount by which the payor's United Kingdom tax was increased by inability to deduct such royalty or other amount) if such recipient elects to include in its gross income the amount of such United Kingdom tax."
- (c) Effective date. The amendment made by subsection (a) of this section shall apply for all taxable years beginning on or after January 1, 1950, as to which section 131 of the Internal Revenue Code of 1939 is the applicable provision. * * * No interest shall be allowed or paid on any overpayment resulting from the amendments made by subsections (a) and (b) of this section.

§ 29.131-3 [Amendment]

Par. 9. Section 29.131-3, as amended by Treasury Decision 6041, approved September 9, 1953, is further amended by adding at the end thereof the following new paragraphs:

For taxable years beginning after December 31, 1949, the taxes deemed to have been paid or accrued under the next paragraph are taxes for which a credit is allowable under section 131.

A taxpayer who has received a royalty derived from sources within the United Kingdom of Great Britain and Northern Ireland is deemed to have paid or accrued any income, war-profits, or excessprofits taxes paid or accrued to the United Kingdom with respect to such royalty (including the amount by which the payor's United Kingdom tax was increased by inability to deduct such royalty), but only if the taxpayer elects to include in his gross income the amount of such United Kingdom tax. The election provided for in section 131(e) and the preceding sentence shall apply only to amounts that are not otherwise includible in gross income under chapter 1.

The credit under this section for taxes deemed paid or accrued with respect to a royalty is allowable in the taxable year in which, under the method of account, ing used by the taxpayer, the royalty is includible in his gross income.

Under section 131(f) a taxpayer shall not be deemed to have paid any taxes with respect to which a credit is allowable to such taxpayer or any other taxpayer by virtue of the provisions of section 131(e).

For the purposes of this section, the term "royalty" means a royalty or other amount paid or accrued as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property.

The rules of this section relating to taxes deemed to be paid or accrued with respect to a royalty may be illustrated by the following examples:

Example (1). A, a resident of the United Kingdom, has agreed to pay B, a resident of the United States, a royalty of \$1,000 per year for the use in the United Kingdom of a patent. At all pertinent times, B is engaged in a trade or business in the United Kingdom through a permanent establishment therein. B computes his taxable income under the cash receipts and disbursements method and files his Federal income tax return on the calendar year basis. Assume that the United Kingdom standard tax rate is 45 percent, and assume further that in 1950 A pays the yearly royalty to B and that such royalty is payable wholly out of profits or gains brought into charge to tax within the meaning of the United Kingdom law. Under such circumstances, A is not entitled to a deduction for the royalty in computing his United Kingdom income taxes but may withhold the amount of \$450 from the royalty as reimbursement for being denied a deduction. Although B will receive only \$550 in 1950, he may include in his gross income for that year the full \$1,000 on account of the royalty instead of just the \$550 received and, subject to the limitations contained in section 131, may obtain a credit for the \$450 withheld by A. Furthermore, the result would be the same if, under United Kingdom law, the \$450 was withheld as tax payable to the United Kingdom by reason that the royalty was not payable out of profits or gains brought into charge to tax.

Example (2). Assume the same facts as stated in example (1), except that the \$550 is received by B in 1950 under a "net royalty" agreement. Under such circumstances, B may include in his gross income \$1,000 on account of the royalty and, subject to the limitations contained in section 131, may obtain a credit for \$450.

[F.R. Doc. 60-411; Filed, Jan. 14, 1960; 8:53 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [7 CFR Part 958] [AO-146 A-1]

IRISH POTATOES GROWN IN COLORADO

Notice of Hearing With Respect to Proposed Amendments to Marketing Agreement No. 97 and Order No. 58

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Grange Hall, 2475 West 26th Avenue, Denver, Colorado, beginning at 9:30 a.m., local time, February 1, 1960, with respect to proposed amendments to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado. The proposed amendments have not received the approval of the Secretary of Agriculture.

The Colorado Potato Committee has proposed the amendments to said marketing agreement and order and has requested a hearing thereon. The proposed amendments contemplate the addition of minimum standards of quality and maturity; pack and container regulatory authority; modification of regulations to consider special market outlets; a revision of certain operating procedures as well as a revision of certain "definitions", and other incidental revisions, all of which are designed to provide flexibility of operation, in accordance with current industry needs.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the provisions of the proposed amendments.

The proposed amendments are incorporated in proposed Marketing Order No. 58, as amended, set forth below.

DEFINITIONS

§ 958.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority hereafter may be delegated, to act in his stead.

No. 10-4

§ 958.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047).

§ 958.3 Person.

"Person" means an individual, partnership, corporation, association, legal representative, or any organized group or business unit of individuals.

§ 958.4 Area.

"Area" means any of the following subdivisions of the State of Colorado: (a) "Area No. 1," commonly known as the Western Slope, includes and consists of the counties of Routt, Eagle, Pitkin, Gunnison, Hinsdale, La Plata, in the State of Colorado, and all counties in said State west of the aforesaid counties.

(b) "Area No. 2," commonly known as the San Luis Valley, includes and consists of the counties of Saguache, Huerfano, Las Animas, Mineral, Archuleta, in the State of Colorado, and all counties in said State, south of the counties enumerated in this definition of Area No. 2.

(c) "Area No. 3" includes and consists of all the remaining counties in the State of Colorado which are not included in Area No. 1 or Area No. 2.

§ 958.5 Potatoes.

"Potatoes" means and includes all varieties of Irish potatoes grown within any of the aforesaid areas.

§ 958.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes.

§ 958.7 Handle or ship.

"Handle" or "Ship" means to transport, sell, or in any way to place potatoes in the current of commerce between the State of Colorado and any point outside thereof.

§ 958.8 Producer.

"Producer" means any person engaged in the production of potatoes for market.

§ 958.9 Fiscal period.

"Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by an area committee.

§ 958.10 Grade, size, and maturity.

"Grade" means any of the officially established grades of potatoes, "size" means any of the officially established sizes of potatoes, and "maturity" means any of the stages of development or condition of the outer skin (epidermis) of potatoes, as defined in the United States Standards for Potatoes issued by the United States Department of Agriculture; (§§ 51.1540 to 51.1556, inclusive of this title), or Colorado grades established by the Commissioner or amendments thereto, or modifications thereof, or variations based on any of the foregoing.

§ 958.11 Varieties.

"Varieties" means all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 958.12 Pack.

"Pack" means a quantity of potatoes in any type of container and which falls within specific weight limits, numerical limits, grade limits, or any combination of these, recommended by the committee and approved by the Secretary.

§ 958.13 Container.

"Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation, or sale of potatoes.

§ 958.14 Culls.

"Culls" means potatoes which do not meet the requirements set forth in \$ 958.20 hereof.

§ 958.15 Committee.

"Committee" means any of the three area committees, established pursuant to § 958.50, or the Colorado Potato Committee established pursuant to § 958.65.

§ 958.16 Export.

"Export" means shipment of potatoes beyond the boundaries of Continental United States.

REGULATION

§ 958.20 General cull regulation; limitation of shipments.

The Secretary shall issue an order, whenever he determines that the initial committees provided for in this subpart have been selected and are prepared to exercise their powers and perform their duties assigned in this subpart, which will provide for the regulation pursuant to this section being and becoming effective at the time specified in said order. After the effective time specified in said order issued pursuant to the provisions of this section, no handler shall, except as provided in this subpart, ship potatoes which do not meet requirements of the U.S. No. 2 or better grade, as such grades are defined in said U.S. Standards for Potatoes, except that a mixture of varieties may be shipped: Provided, That no potatoes of the U.S. No. 2 grade or better grades, as defined in said U.S. Standards for Potatoes, which are less than 11/2 inches in diameter, may be shipped in addition to the tolerance by weight for undersize as specified for the respective grade in said U.S. Standards for Potatoes.

§ 958.21 Suspension or modification of cull regulation.

The Colorado Potato Committee may recommend to the Secretary the suspension or modification of § 958.20, and each such recommendation shall be accompanied by a statement of marketing policy developed pursuant to § 958.23. If the Secretary finds, upon the basis of such recommendation and information submitted by said committee or upon the basis of other available information that to do so will tend to ef-

fectuate the declared policy of the act, he shall suspend the operation of § 958.20, or modify the regulation thereof, so as to permit the shipment of potatoes, the shipment of which otherwise would be prohibited pursuant to § 958.20. Such suspension or modification may be made applicable, during a specified period, to any or all varieties of potatoes. In like manner and upon the same basis, the Secretary may terminate any such suspension or modification.

§ 958.22 Notice of cull regulation.

No regulation issued by the Secretary, pursuant to the provisions of § 958.20 or § 958.21, shall become effective within less than two days subsequent to the day of issuance thereof. A copy of each regulation issued by the Secretary pursuant to the provisions of § 958.20 or § 958.21, shall be forwarded promptly to the Colorado Potato Committee; said Colorado Potato Committee shall give such notice thereof as may be reasonably calculated to bring each such regulation to the attention of all interested parties.

§ 958.23 Marketing policy.

Each season prior to or at the same time as initial recommendations are made pursuant to § 958.24, each area committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in shipping potatoes from the respective area during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by the committee to adopt a new marketing policy because of changes in the demand and supply situation with respect to potatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

- (a) Market prices for potatoes, including prices by grade, size, and quality in different packs, or in different containers;
- (b) Supply of potatoes by grade, size, quality, and maturity in production areas:
- (e) The trend and level of consumer income:
- (d) Establishing and maintaining such orderly marketing conditions for potatoes as will be in the public interest; and
 - (e) Other relevant factors.

§ 958.24 Recommendations for regulations.

An area committee upon complying with the requirements of § 958.23 may recommend regulations to the Secretary whenever it finds that such regulations as provided for in this subpart will tend to effectuate the declared policies of the Act.

§ 958.25 Issuance of regulations.

(a) The Secretary shall limit the shipment of potatoes whenever he finds

from the recommendations and information submitted by a committee, or from other available information, that such regulations would tend to effectuate the declared policy of the Act. Such limitation may:

(1) Regulate the handling of particular grades, sizes, qualities, or maturities of any or all varieties of potatoes, or any combination of the foregoing during any period:

(2) Regulate the handling of particular grades, sizes, qualities, or maturities of potatoes differently, for different varieties, for different sizes and types of containers, for different portions of the production area, for different packs, or for any combination of the foregoing, during any period.

(3) Provide a method through rules and regulations issued pursuant to this subpart for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of potatoes, or both.

(4) Establish in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) The Secretary may amend or modify any regulation issued under this subpart whenever he finds from the recommendations of a committee or other available information that such regulation as amended or modified would tend to effectuate the declared policy of the act. In like manner, the Secretary may also terminate or suspend any regulation whenever he finds that such regulation obstructs or no longer tends to effectuate the declared policy of the act.

(c) The Secretary shall notify each committee of each regulation issued pursuant to this section and the committee shall give reasonable notice thereof to handlers: *Provided*, That no such regulation shall become effective less than two days after issuance thereof.

§ 958.26 Handling for special purposes.

Upon the basis of recommendations and information submitted by an area committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared purposes of the act, shall modify, suspend, or terminate requirements in effect pursuant to §§ 958.20 to 958.25, inclusive, or §§ 958.40 or 958.76, or any combination thereof, to facilitate handling of shipments of potatoes for:

- (a) Distribution by relief agencies or charitable institutions;
 - (b) Livestock feed;
 - (c) Export;
- (d) Seed potatoes which have been certified by the official seed certification agency of the State of Colorado and bear the official tags and seals indicating such certification;
- (e) Potatoes, not certified as described in paragraph (d) of this section, sold for seed exclusively to a producer of potatoes within the area of production;
- (f) Manufacture or conversion into specified products: *Provided*, That any lot of potatoes handled for manufacture or conversion into any product which can be substituted for fresh potatoes for

human consumption shall meet the requirements of the U.S. 2 grade as defined in U.S. Standards for Potatoes identified in § 958.10: Except, That an additional tolerance of 4 percent for defects or undersize may be permitted for potatoes owned or controlled by a producer.

(g) Other purposes recommended by the Committee and approved by the

Secretary.

§ 958.27 Safeguards.

- (a) Each area committee, with the approval of the Secretary, shall prescribe adequate safeguards to prevent potatoes handled pursuant to § 958.76 from entering channels of trade for other than the specified purposes for which such authorizations were issued, and the rules governing the issuance and the contents of such certificates or other documents as may be prescribed as safeguards by the committee.
- · (b) Such safeguards may include requirements that handlers or processors desiring to handle potatoes pursuant to § 958.26 shall:
- (1) Apply for and obtain certificates of privilege from the area committee for handling potatoes affected or to be affected under the provisions of § 958.26.
- (2) Obtain inspection as required by § 958.40, or pay the assessment levied pursuant to § 958.76, or both, except as modified pursuant to § 958.26 in connection with shipments made under any such certificate; and
- (3) Furnish the committee such information, and execute or obtain execution of such documents, as the committee may require.
- (c) An area committee may rescind or deny to any handler permission to handle potatoes pursuant to § 958.26 of this subpart if proof satisfactory to the committee is obtained that potatoes handled by him for a purpose stated in § 958.26 were handled contrary to the provisions of this subpart.
- (d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes handled under duly issued certificates, and such other information as may be requested.

EXEMPTIONS

§ 958.28 Policy.

Any producer whose potatoes have been adversely affected by acts beyond the control or reasonable expectation of a prudent grower and who, by reason of any regulation issued pursuant to § 958.25, is or will be prevented from shipping or having shipped during the then current marketing season, or a specific portion thereof, as large a proportion of his potato crop other than culls as the average proportion shipped or to be shipped during comparable portions of the season by all producers in his immediate area of production, may apply to the committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

§ 958.29 Rules and procedures.

Each area committee shall adopt, with the approval of the Secretary, the rules and procedures for granting exemptions. Such rules and procedures shall provide for processing applications for exemptions, for issuing certificates of exemption, for committee determinations with respect to areas and averages, and for such other procedures as may be necessary to carry out the provisions in §§ 958.28 to 958.32, inclusive.

§ 958.30 Granting exemptions.

An area committee shall issue certificates of exemption to any qualified applicant who furnishes adequate evidence to such committee:

(a) That the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond his control or reasonable expectation;

(b) That by reason of regulations issued pursuant to § 958.25, he will be prevented as a producer from shipping or having shipped as large a proportion of his production other than culls as the average proportion of production other than culls shipped by all producers in said applicant's immediate area of production during the season, or a specific portion thereof.

(c) Each such certificate issued shall permit the person identified therein to ship or have shipped the potatoes described thereon, and evidence of such certificates shall be made available to subsequent handlers thereof.

§ 958.31 Investigation.

An area committee shall be permitted at any time to make a thorough investigation of any applicant's claim pertaining to exemptions.

§ 958.32 Appeal.

If any applicant for exemption certificates is dissatisfied with the determination by an area committee with respect to his application, he may file an appeal with the committee. Such an appeal must be made in a time limit established by the committee pursuant to \$ 958.29. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal.

RESEARCH AND DEVELOPMENT

§ 958.35 Research and development.

The committee, with the approval of the Secretary, may provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes and may make available committee information and data to any person, or to any employee of an agency or its agent, authorized by the committee as its agent with the approval of the Secretary, to conduct such projects.

INSPECTION

§ 958.40 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to one or more of §§ 958.20, 958.21, or 958.25, no handler shall handle po-

tatoes unless such potatoes are inspected by an authorized representative of the Federal or Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to § 958.26, or paragraph (b) of this section.

(b) Regrading, resorting, or repacking any lot of potatoes shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall handle potatoes after they have been regraded, resorted, repacked, or in any way further prepared for market, unless such potatoes are inspected by an authorized representative of the Federal, or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, or repacked potatoes may be modified, suspended, or terminated upon recommendation by an area committee, and approval by the Secretary.

(c) Upon recommendation of an area committee and approval by the Secretary, any or all potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of a Federal or Federal-State inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) A committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other document authorized by the committee to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

AREA COMMITTEES

§ 958.50 Establishment and membership.

An area committee is hereby established for each area. The members of each area committee and their respective alternates shall be selected by the Sectotary in accordance with the provisions of §§ 958.54 and 958.55. Each committee shall have the following number of members who shall be selected from the indicated subdivisions of the respective area:

(a) Area No. 1 (Western Slope): Four producers and three handlers selected as follows:

Two (2) producers and one (1) handler from the countles of Eagle, Garfield, Pitkin, Moffat, and Routt, in the State of Colorado; Two (2) producers and one (1) handler from the remaining counties of Area No. 1;

One (1) handler representing all pro-

ducers' cooperative marketing associations in Area No. 1.

(b) Area No. 2 (San Luis Valley): Seven producers and five handlers selected as follows:

Three (3) producers from Rio Grande County:

One (1) producer from Saguache County; One (1) producer from Conejos County;

One (1) producer from Alamosa County;

One (1) producer from all other counties in Area No. 2;

Two (2) handlers representing all producers' cooperative marketing associations in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than producers' cooperative marketing associations.

(c) Area No. 3: Five producers and four handlers selected as follows:

Three (3) producers from Weld County; One (1) producer from Morgan County;

One (1) producer from the remaining counties of Area No. 3;

Four (4) handlers from Area No. 3.

(d) The Secretary, upon the recommendation of an area committee, may reestablish the subdivisions of the respective area or alter the distribution of representation among the subdivisions thereof, or both: Provided, That the total number of subdivisions and members provided for shall remain unchanged. In recommending any such changes, the committee shall consider (1) The relative importance of new areas of production, (2) changes in the relative positions of existing subdivisions with respect to production, (3) the geographic locations of areas of production as they would affect the efficiency of administration of this part, and (4) other relevant factors.

§ 958.51 Alternates.

(a) There shall be an alternate member for each member of each area committee: and each such alternate member shall have the same qualifications and shall be selected in the same manner as the respective member for whom such individual serves as an alternate. The alternate for a member of an area committee shall, in the event of the respective member's absence, act in place of said member; and in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place of said member.

(b) With respect to Area 3, the persons selected as members shall represent producers and handlers of early crop potatoes and shall constitute the area committee for regulation purposes during the period June 1 to September 15. inclusive, of each year. The persons selected as alternate members shall represent producers and handlers of late crop potatoes and shall constitute the area committee for regulation purposes during the period September 16 to May 31, inclusive, of each year. The persons selected as members and alternates together shall constitute the area committee for all purposes requiring committee action and concerned with matters substantially affecting both early and late crop producers and handlers.

§ 958.52 Eligibility.

The producers who may be selected as members of an area committee shall be individuals who are producers of potatoes in the respective area or officers or employees of a producer or producers in such area. The handlers who may be selected as members of an area committee shall be individuals who are handlers of potatoes in the respective area or officers or employees of a handler or handlers in such area. The persons who may be selected to represent producers' cooperative marketing associations shall be members or employees of such associations.

§ 958.53 Term of office.

(a) The members of each area committee and their respective alternates shall be selected to serve for a two-year period beginning July 1 and ending on the second following June 30 with respect to Area 1 and Area 2, and beginning on June 1 and ending on the second following May 31 with respect to Area 3, and in any event until their respective successors have been selected and have qualified: Provided, That of the initial members and alternates selected pursuant to § 958.54, one-half or as near thereto as possible shall serve for one year only, and the remainder for two years, beginning with the dates of their qualification and ending on the first or second following June 30 or May 31, whichever is appropriate. Determination of which initial members and alternates shall serve for one year or two years shall be by lot.

§ 958.54 Initial nomination and selection.

- (a) In the event that this amended subpart becomes effective prior to May 15, 1960, the initial members and alternates of the area committees shall be selected according to the provisions of § 958.55 hereof.
- (b) In the event that this amended subpart becomes effective on or after May 15, 1960, the members and alternates of the area committees selected pursuant to applicable provisions in effect on that date shall serve as the initial members and alternates hereunder: Provided, That their respective terms of office shall be arranged in accordance with the provisions of \$958.53: And provided further, That such additional nomination and selection as is necessary to give effect to the provisions of \$958.50(b) shall be carried out promptly.

§ 958.55 Subsequent nomination and selection.

- (a) Each area committee shall hold or cause to be held, not less than 15 days prior to the expiration date of committee terms of office, meetings of producers and handlers for each of the area subdivisions designated in § 958.50 which has one or more members or alternates whose terms expire.
- (b) At each such meeting one or more nominees shall be designated for each impending vacancy as member or alternate. Such designation may be by ballot or by motion at the option of those present in voting capacity.

- (c) Only producers may participate in designating producer nominees; only handlers may participate in designating handler nominees; and only duly authorized representatives of producers' cooperative marketing associations may participate in designating nominees to represent such associations: *Provided*, That if no separate representation is provided for producers' cooperative marketing associations, duly authorized representatives of such associations may participate in designating handler nominees.
- (d) Each producers' cooperative marketing association shall be entitled to cast only one vote in designating nominees to represent such associations; and each producer and each handler shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives.
- (e) In the event a producer, handler, or producers' cooperative marketing association is engaged in producing or handling potatoes in more than one area, or in more than one subdivision of an area, such producer, handler, or producers' cooperative marketing association shall elect the area or subdivision in which he may participate in designating nominees. In no event shall there be participation in more than one area or subdivision.

§ 958.56 Failure to nominate.

In the event nominations are not made for membership on a committee pursuant to the provisions of § 958.55, by the date provided therein, the Secretary may select such members and their respective alternates without waiting for nominees to be designated. To fill any vacancy occasioned by the failure of any person selected as a member or alternate member of an area committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary.

§ 958.57 Qualification.

Each person selected as a member of an area committee or an alternate member thereof, shall qualify promptly by filing with the Secretary a written acceptance of the appointment.

§ 958.58 Compensation and expenses.

Members of an area committee and their alternates shall serve without salary, but may be compensated at a rate not in excess of \$10.00 per day while engaged on committee business, and may be reimbursed for necessary expenses actually incurred while so engaged. Mileage at a rate not to exceed the rate allowed by the state of Colorado may be paid in lieu of actual expenses for operation of privately-owned automobiles. At the discretion of an area committee, alternates may be requested to attend any or all committee meetings and receive compensation and expenses therefor regardless of attendance by the respective members.

§ 958.59 Procedure.

(a) Upon the selection and qualification of a majority of its members, each

area committee may organize and commence to function, except that when a committee deems it necessary in order to provide for continuity of policy, planning, or management, it may select officers, establish subcommittees, select employees, prepare a budget, and do all other things necessary in preparation for operation at any time after nomination and before selection and qualification of members and alternates: Provided, That each and every act thus accomplished shall be affirmed by reference at the first meeting following selection and qualification of a majority of its members.

(b) A majority of all members shall be necessary to constitute a quorum of the respective area committee.

(c) For any decision of an area committee to be valid, a majority of the votes of all members shall be necessary.

(d) Except as provided in this subpart, each member, or alternate member when acting as a member, shall vote in person.

(e) Each area committee may provide for the members thereof, including the alternate members when acting as members, to vote by telegraph, telephone or other means of communication: *Provided*, That any such vote cast orally shall be confirmed promptly in writing.

§ 958.60 Powers.

Each area committee shall, with respect to its respective area have the following powers:

(a) To administer the terms and provisions of this subpart as specifically provided herein;

(b) To make, in accordance with the provisions contained in this subpart, administrative rules and regulations:

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart; and

(d) To recommend to the Secretary amendments of this part.

§ 958.61 Duties.

Each area committee shall have the following duties:

(a) To meet and organize as soon as practical after the beginning of each term of office, select a chairman and such other officers as may be necessary, select subcommittees and adopt such rules and procedures for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler.

(c) To appoint such employees, agents, and representatives as it may deem necessary and determine the salaries and define the duties of each;

(d) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee, including all actions under §§ 958.26 and 958.30, and the data supporting such actions, and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(e) To furnish the Secretary promptly with notice of meetings and with copies of the minutes of each committee meeting and the annual report of the committees' operations for the preceding marketing season and fiscal period, and

such other reports or information as may be requested by the Secretary;

- (f) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;
- (g) To consult, cooperate, and exchange information with other marketing agreement committees and other agencies or individuals in connection with proper committee activities and objectives;

(h) To take any proper action necessary to carry out the provisions of this subpart; and

(i) May establish and pay the expenses of advisory committees for the purpose of consulting with Federal, State, or other appropriate agencies with regard to marketing research and development projects pursuant to § 958.35.

COLORADO POTATO COMMITTEE

§ 958.65 Membership and organization.

The Colorado Potato Committee consisting of six members is hereby established. Two of the members of said Colorado Potato Committee shall be selected by the Secretary from each area committee. There shall be an alternate member for each member of said Colorado Potato Committee; and each such alternate member shall have the same qualifications and shall be selected in the same manner as the respective member for whom such individual serves as an alternate. The alternate for a member of the Colorado Potato Committee shall, in the event of the respective member's absence, act in the place of said member; and in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place of said member.

§ 958.66 Selection and term of office.

(a) The Secretary shall select the members of the Colorado Potato Committee and their respective alternates from nominations submitted by each area committee.

(b) The members and respective alternates thus selected shall serve a term of one year beginning July 1 and ending June 30, and until their respective successors have been selected and have qualified, notwithstanding expiration of their terms of office on the respective area committees.

§ 958.67 Qualification.

Each person selected as a member of the Colorado Potato Committee or as an alternate member thereof, shall qualify promptly by filing with the Secretary a written acceptance of the appointment.

§ 958.68 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member of the Colorado Potato Committee or as an alternate member thereof to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member of said committee, a successor for his unexpired term shall be selected by the Secretary.

§ 958.69 Compensation and expenses.

(a) Members of the Colorado Potato Committee and their respective alternates shall serve without salary, but may be compensated at a rate not in excess of \$10.00 per day while engaged on committee business, and may be reimbursed for necessary expenses actually incurred while so engaged. Mileage at a rate not to exceed the rate approved by the State of Colorado may be paid in lieu of actual expenses for operation of a privately owned automobile.

(b) The compensation and expenses provided in paragraph (a) of this section shall be paid by the respective area committees.

(c) Such other expenses as may be incurred by the Colorado Potato Committee pursuant to a budget of expenses approved by the Secretary shall be allotted to, and paid by, one or more area committees as may be specified in an order issued by the Secretary pursuant to the provisions of this subpart.

§ 958.70 Procedure.

(a) The Colorado Potato Committee may, upon the selection and qualification of a majority of its members, organize and commence to function.

(b) A majority of all members shall be necessary to constitute a quorum of the Colorado Potato Committee.

(c) For any decision of the Colorado Potato Committee to be valid a majority of the votes of all members shall be necessary.

(d) Except as provided in this subpart, each member or alternate member when acting as a member, shall vote in person.

(e) The Colorado Potato Committee may provide for its members including the alternate members when acting as members, to vote by telegraph, telephone or other means of communication: Provided, That any such vote cast orally shall be confirmed promptly in writing.

§ 958.71 Powers.

The Colorado Potato Committee shall have the following powers:

(a) To administer the terms and provisions in this subpart as specifically provided herein;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart with regard to the duties of said committee:

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 958.72 Duties.

The Colorado Potato Committee shall have the following duties:

(a) To meet and organize as soon as practical after the beginning of each term of office, select a chairman and such other officers as may be necessary, select subcommittees and adopt such rules and procedures for the conduct of its business as it may deem advisable;

(b) To supervise when no regulation is in effect pursuant to § 958.25, the regulation of shipments pursuant to the provisions of §§ 958.20 and 958.21 and to cooperate with any area committee in

connection with administering the provisions of § 958.25, or any regulation issued pursuant thereto:

(c) To make recommendations to the Secretary with respect to suspending or modifying the provisions of § 958.20;

(d) To submit to each area committee such available information as may be requested by the respective committee;

(e) To consult, cooperate, and 'exchange information with other marketing agreement committees and other agencies or individuals in connection with proper committee activities and objectives;

(f) To keep minutes, books, and records, which will clearly reflect all of its acts and transactions, and such minutes, books, and records shall be subject at all times to examination by the Secretary or his designated agent;

(g) To act as intermediary between the Secretary and the producers and handlers:

(h) To submit to the Secretary such available information as may be requested by the Secretary;

(i) Appoint such employees, agents, and representatives as it may deem necessary and determine the salaries and define the duties of each;

(j) Furnish the Secretary promptly with copies of the minutes of each committee meeting;

(k) To make available to area com-

mittees the committee voting record on recommended modifications of § 958.20, and on other matters of policy; and

(1) Take any proper action necessary to carry out the provisions of this subpart.

EXPENSES AND ASSESSMENTS

§ 958.75 Expenses.

Each of the area committees is authorized to incur such expenses as the Secretary finds may be necessary to enable the respective committee to perform its functions, in accordance with the provisions of this subpart, during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments, as provided in this subpart, upon handlers.

§ 958.76 Assessments.

(a) The funds to cover each area committee's expenses and expenses of the Colorado Potato Committee shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles potatoes which are regulated under this part, shall pay assessments to the area committee upon demand, which assessments shall be in payment of such handler's pro rata share of the area committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the area committee's recommendations and other available information. Such rates may be applied to specified containers used in the pro-

duction area.

(c) At any time during, or subsequent to, a given fiscal period the area committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of

such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all potatoes which were regulated under this part and which were handled by the first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the area committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(e) In order to provide funds to en-

able each area committee to perform its functions under this part, handlers may make advance payment of assessments.

§ 958.77 Accounting.

- (a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:
- (1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected.
- (2) An area committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: Provided, That funds already in the reserve are less than approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this subpart are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this subpart. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by an area committee pursuant to the provisions of this part shall be used solely for the purposes specified herein. The Secretary may at any time require an area committee and its members to account for all receipts

and disbursements.

- (c) Upon the removal or expiration of the term of office of any member of a committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.
- (d) A committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other com-

mittee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

EFFECTIVE TIME AND TERMINATION

§ 958.80 Effective time.

The provisions of this subpart shall become effective at such time as the Secretary may declare above his signature attached to this subpart.

§ 958.81 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during the then preceding fiscal period, have been engaged in the production of potatoes for market: Provided, That such majority has, during such period, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be

May 31 of the then current fiscal period. (d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

effective only if announced on or before

§ 958.82 Proceedings after termination.

(a) Upon the termination of the provisions, of this subpart, the then functioning members of each committee shall continue as trustees, for the purpose of liquidating the affairs of the said committee, of all the funds and property then in the possession of or under control of such committee, including claims for and funds unpaid or property not delivered at the time of such termina. tion. The procedural rules governing the activities of said trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the trustees shall be prescribed by the Secretary.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the respective committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person the right to all of the funds, property, and claims vested in the respective committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or

delivered by a committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said trustees.

§ 958.83 Effect of termination or amendments.

- (a) Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (1) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.
- (b) The persons who are committee members and alternates on the effective date of this subpart shall continue in office until their successors have been selected and have qualified. All rules and regulations issued or approved by the Secretary pursuant to this part and not in conflict herewith, which are in effect immediately prior to the date of this amendment, shall continue in effect under this subpart as originally issued. or subsequently modified, until such rules and regulations are changed, modified, or suspended in accordance with this subpart.

MISCELLANEOUS PROVISIONS

§ 958.85 Compliance.

Except as provided in this subpart, no handler shall ship potatoes, the shipment of which has been prohibited in accordance with this subpart; and no handler shall ship potatoes except in conformity to the provisions of this part, and the provisions of the regulations, if any, issued by the Secretary pursuant to the provisions of this subpart.

§ 958.86 Right of the secretary.

The members of each committee provided for in this subpart, including successors and alternates thereof, and any agent or employee appointed or employed by a committee shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of each committee shall be subject to the continuing right of the Secretary to disapprove of such order, regulation, decision, determination, or other act, and upon disapproval at any time, such action by a committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 958.87 Reports.

For the purpose of enabling each committee to perform its functions pursuant to the provisions of this subpart, each handler shall furnish to the respective committee, in such form and at such times and subtantiated in such manner

as shall be prescribed by the respective committee and approved by the Secretary, such information as may thus be requested by the committee, subject to approval by the Secretary, with regard to each shipment of potatoes.

§ 958.88 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 958.89 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 958.90 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers, granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 958.91 Personal liability.

No member or alternate of any committee, nor any employee thereof, shall be held personally responsible, either individually or jointly with others in any way whatsoever to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 958.92 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 958.93 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Colorado Potato Committee, any area committee, or by the Secretary.

§ 958.94 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.¹

§ 958.95 Additional parties.

After the effective date hereof, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary.

This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

§ 958.96 Order with marketing agreement.

Each signatory handler favors and approves the issuance of an order by the Secretary regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.¹

Copies of this notice may be obtained from the Marketing Field Office, Agricultural Marketing Service, U.S. Department of Agriculture, Room 344-B New Custom House, Denver 2, Colorado, or from the Hearing Clerk, United States Department of Agriculture, Room 112 Administration Building, Washington 25, D.C., or may be there inspected.

Dated: January 12, 1960.

F. R. Burke,
Acting Deputy Administrator,
Marketing Services.

[F.R. Doc. 60-405; Filed, Jan. 14, 1960; 8:52 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[46 CFR Part 222]

Docket No. 8761

FILING OF AGREEMENTS UNDER SECTION 15, SHIPPING ACT, 1916, AS AMENDED

Notice of Proposed Rule Making

Notice is hereby given, in accordance with section 4, Administrative Procedure Act (5 U.S.C. 1003), that pursuant to section 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114) and section 15, Shipping Act, 1916, as amended (39 Stat. 733; 46 U.S.C. 814), the Federal Maritime Board is considering issuing the rules as set forth below. Prior to the adoption of these rules consideration will be given to any written data, views or comments pertaining thereto, which are submitted in fifteen counterparts to the Secretary, Federal Maritime Board, Washington 25, D.C., by close of business on March 15, 1960.

The following proposed rules shall apply to every common carrier by water and other person subject to the Shipping Act, 1916, amended:

1. Filing of agreements. (a) Every common carrier by water or other person subject to the Shipping Act, 1916, immediately upon entering into the same shall file with the Board a true copy, or, if oral, a true and complete memorandum of every agreement with another such carrier or other person subject to the Shipping Act, 1916, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating

transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, pre-venting, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings betwen ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. All agreements, modifications or cancellations made shall be lawful only when and as long as approved by the Board, and before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

The term "agreement" as used in these rules includes understandings, conferences, and other arrangements whether formal or informal, written or oral, and any modification or cancellation thereof. The term "agreement" does not include routine, day by day activities under the plan or program which is provided for by the express language or reasonable intendment of such language of a previously approved section 15 agreement; such as (but not limited to) the adoption of tariffs of rates, fares, charges, and rules and regulations pertaining thereto, and corrections and supplements thereto and reissues thereof adopted by the parties pursuant to an approved section 15 agreement. Notwithstanding the foregoing, if the parties to an approved agreement take an action which introduces a new or modified system for the establishment of rates, or fares, or a new or modified plan, program, method, concept, practice or condition, or which imposes a penalty upon or denies a benefit to persons not parties to said agreement, such action shall constitute an "agreement" as used in these rules, and shall be unlawful unless approved by the Board.

(b) Each agreement (new agreement, modification agreement or cancellation agreement) so filed shall be submitted in duplicate and accompanied by a letter of transmittal. Such letter of transmittal must (1) specifically request approval of the agreement under section 15; (2) set forth the specific purposes sought to be accomplished by the agreement; (3) set forth the reason or necessity for making it; and (4) refer to each previously filed agreement which the agreement transmitted supersedes. cancels, or modifies. No agreement will be accorded action under section 15 unless the letter of transmittal meets these requirements. Agreements incorporated in, or set forth in the form of, letters will not be accepted.

(c) Each agreement filed must record the corporate, firm, or individual name of each principal. The trade name of each may, if desired, be shown in parentheses. The name and title of each individual signing the agreement should be typed beneath his signature. If the agreement is not dated, the date each signature is affixed should be shown. If the agreement is signed by an agent or

¹ Applicable only to the proposed marketing agreement, as amended.

representative on behalf of a principal, evidence of authority to so sign, if not already on file, should accompany the filing. Except in instances where a true copy of the agreement is filed, each agreement filed must bear the signature of each principal, or its duly authorized agent or representative.

(d) Each agreement filed must:

(1) Set forth clearly and specifically the subject matter of agreement and the procedure by which action giving effect to the agreement is to be taken by the parties;

(2) Clearly show in detail (preferably in the opening paragraph) its nature, the parties, ports and subject matter thereof, and refer to any previously filed agreement(s) to which it may relate;

- (3) In the case of a conference agreement between common carriers by water, provide that any common carrier as defined in section 1 of the Shipping Act, 1916, as amended, who has been regularly engaged as such common carrier in the trade covered by the agreement, or who furnishes evidence of ability and intention in good faith to institute and maintain a regular service in such trade, may be admitted to conference membership, and that such admission shall not be denied except for just and reasonable cause;
- (4) In the case of a conference agreement between "other persons" as defined in section 1 of the Shipping Act, 1916, as amended, include a provision similar to that indicated in subparagraph (3) above:
- (5) Provide for a reasonable period of notice to all parties to the agreement before termination thereof may become effective, except that provision may be made for waiver of advance notice in case a party terminates its participation in an agreement because of discontinuance of service. Agreements under which action is to be determined from time to time by vote of the parties, should include a provision setting forth that a withdrawing member shall not be entitled to vote on any matter which is to become effective after the date of his withdrawal;
- (6) In the case of conference agreements, provide that admissions to participation therein shall not be made effective until advice thereof has been received by the Board; and in the event of denial of admission, or of expulsion of members pursuant to specific provisions of the agreement, provide for furnishing a detailed statement of the reasons therefor:
- (7) Provide that withdrawals from participation in the agreement shall not be made effective until advice thereof has been received by the Board;
- (8) In the case where rules and regulations and other appendices accompany the agreement, identify the appendices and specifically state that they are attached to, and made a part of, the agreement:
- (9) In the case where a voting procedure is set forth therein, include a provision to the effect that a party who has been inactive over a period of time (three months, for example), shall have no right to vote except on changes in the agreement until service is resumed.

and that notice of suspension and restoration of voting rights shall be promptly furnished the Board;

- (10) In the case of conference agreements, include a provision to the effect that approval thereof by the Federal Maritime Board pursuant to section 15 of the Shipping Act, 1916, shall not be construed to deprive any party of its rights under the provisions of the Shipping Act, 1916, as amended, or affect the jurisdiction of the Federal Maritime Board under said Act.
- (e) Each agreement filed in a language other than English must be accompanied by an English translation which must be signed by the principals or by their duly authorized agents or representatives for and on behalf of such principals.
- (f) Each rate-fixing conference agreement should be limited to the organization of a conference which has for its primary purpose the establishment and maintenance of agreed rates. If there is an understanding as to pooling of revenue or apportionment of traffic, space, or sailings, such understanding should be filed as a separate agreement.
- 2. Activities under agreements. (a) The parties to each agreement approved under section 15 shall file with the Board, by way of minutes of meetings or other reports, information of all actions taken under the agreement. Every action taken which constitutes a new agreement, in addition to being included in the information thus furnished the Board, shall be filed separately for prior approval pursuant to rule 1 hereof. Such actions which the parties consider to be routine actions under the agreement shall be so declared by them in the information furnished the Board.
- (b) Such minutes or other reports (except tariffs of rates, fares, charges, rules, and regulations, and supplements thereto and reissues thereof) shall be filed with the Board within ten (10) days following the taking of the action, except in instances where the action is taken outside Continental United States, in which case such minutes or other reports shall be filed with the Board within twenty (20) days following the taking of the action. Date of receipt by the Federal Maritime Board, Washington.25, D.C., shall be considered the date of filing.
- (c) If, upon such filing, the Board determines that any such action declared by the parties as routine is not routine under the applicable approved agreement, but is in fact a separate or new "agreement" within the meaning of these rules, it will promptly notify the parties that no action should be taken under such unapproved agreement pending its filing by the parties pursuant to rule 1 hereof and approval by the Board under section 15 of the Shipping Act, 1916.
- (d) Tariffs of rates, fares, charges, rules, and regulations, and supplements thereto and reissues thereof adopted by the parties under approved section 15 agreements shall be filed with the Board promptly upon issuance unless time for filing is otherwise specified by an ap-

plicable statute, rule or order of the Board.

- (e) Information of all actions taken under agreements, furnished the Board by way of minutes of meetings or other reports, must afford a complete record setting forth each subject matter under consideration, the action taken on, or the disposition of, each such matter, and the reason or basis for the action taken or disposition made. When minutes of meetings are subject to confirmation at a subsequent meeting, a copy of such minutes which may be endorsed "Subject to Approval" must be furnished promptly and advice of final action in respect thereto, including a complete report of any changes therein, must be included in the minutes of the next meeting or be transmitted separately to the Board. When action is taken other than at meetings, as by circular, by telephone, or by other informal means, a true and complete record of any such action must be furnished the Board in the same manner and detail as are minutes of meetings. Minutes, records, or reports required to be furnished under this rule must be subscribed to and certified by the Chairman or the Secretary or other responsible official of the conference, or by the parties to the agreement, as being true and complete records of all of the matters dealt with by the parties. Minutes of meetings and other reports of actions taken under agreements (except tariffs of rates, fares, charges, rules, and regulations, and supplements thereto and reissues thereof) which are furnished the Board will be treated as confidential information to be disclosed only for good cause.
- (f) The parties to agreements providing for pooling or apportioning revenue, traffic, sailings, or space, shall transmit to the Board statements of pool contributions and distribution, and/or apportionment of traffic or sailings, as the case may be, together with such other facts pertaining thereto as are necessary to reveal fully the results achieved under the agreement. Such data will be treated as confidential information for the Board only.
- (g) In the case of steamship conference agreements, statements showing the actual sailings made from all ports of origin to all ports of destination within the scope of the agreement by each carrier party thereto, must be prepared and furnished as often as deemed necessary. by the Board to keep the Board fully and accurately informed as to the current services of the parties under the agreement.
- -3. Violations of agreements. A full and complete report of every alleged violation of any approved agreement by any of the parties thereto and of final disposition thereof must be furnished the Board.
- 4. Procedure for processing agreements. (a) The Federal Maritime Board may disapprove any agreement filed pursuant to rule 1 which it finds on its face to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate

to the detriment of the commerce of the United States, or to be in violation of the Shipping Act, 1916, as amended; parties aggrieved by such disapproval may file written protests with reasons therefor and request a hearing.

(b) Notice of every agreement filed pursuant to rule 1 which is not disapproved by the Board as provided in paragraph (a) of this rule 4 will be promptly published in the Federal Register, unless the Federal Maritime Board dispenses with the publication of notice and the receipt of public comment in circumstances it deems to warrant such omission pursuant to section 4 of the Administrative Procedure Act or other applicable laws. The publication in the Federal Register shall provide that interested parties may submit to the Board, within twenty (20) days after publication, written statements with reference

to the agreement and their position as to approval, disapproval, or modification together with a request for hearing, should a hearing be desired.

(c) On receipt of a protest or statement as provided in either paragraph (a) or (b) of this rule 4, the Federal Maritime Board will determine whether any further proceeding is necessary, and, if so, whether to grant a full public hearing or other method of hearing, such as briefs and/or oral argument. Notice of the hearing will be published in the FEDERAL REGISTER. After all proceedings are submitted, the Federal Maritime Board will decide whether the agreement is to be approved, disapproved, or modified pursuant to section 15 of the Shipping Act, 1916, and will enter an appropriate order.

5. Elimination from membership and/or participation in agreements. Imme-

diately upon the existence of a state of war between the United States and any country, the parties to every agreement in effect, any provisions thereof to the contrary notwithstanding, shall eliminate forthwith from membership and/or participation in every such agreement all nationals, and/or their agents or representatives, of said country.

6. Definitions. As used herein the term "Board" means "Federal Maritime Board" and its staff.

By order of the Federal Maritime Board.

Dated: January 12, 1960.

James L. Pimper, Secretary.

[F.R. Doc. 60-415; Filed, Jan. 14, 1960; 8:53 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Office of the Secretary

[1960 Dept. Circular No. 1029; Amdt. 1]

4% PERCENT TREASURY NOTES OF SERIES A-1964

Issuance

JANUARY 11, 1960.

Department Circular No. 1029, dated July 20, 1959 (24 F.R. 5945), is hereby supplemented and amended by the addition of the following new section:

VI. REGISTERED NOTES

1. The issuance of 4¾ percent Treasury Notes of Series A-1964 in registered form is hereby authorized.

2. Bearer notes with interest coupons attached (hereinafter referred to as coupon notes) may be exchanged for notes registered as to principal and interest upon presentation and surrender of the coupon notes to a Federal Reserve Bank or Branch or the Bureau of the Public Debt, Division of Loans and Currency, Washington 25, D.C., with specific instructions for the issuance and delivery of the registered notes, signed by the owner or his authorized representative. Upon receipt, the notes presented will be cancelled and retired and new registered notes in an equal face amount will be issued and delivered. Such notes will be of the same loan and issue as those presented.

3. The coupon notes submitted for exchange must be forwarded at the risk and expense of their owners, and should ordinarily be forwarded, for the owners' protection, by registered mail, covered by insurance, or by express prepaid. The registered notes will be delivered by registered mail at the risk of, but without expense to, the registered owner, except that securities will be delivered by express collect or by other means if written instructions to such effect are duly re-

ceived by the official agency to which the coupon notes were presented.

4. Provision will be made for the interchange of notes of different denominations and of registered for coupon notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F.R. Doc. 60-412; Filed, Jan. 14, 1960; 8:53 a.m.]

[1960 Dept. Circular No. 1031; Amdt. 1]

5 PERCENT TREASURY NOTES OF SERIES B-1964

Issuance

JANUARY 11, 1960.

Department Circular No. 1031, dated October 6, 1959 (24 F.R. 8241), is hereby supplemented and amended by the addition of the following new section:

VI. REGISTERED NOTES

1. The issuance of 5 percent Treasury Notes of Series B-1964 in registered form is hereby authorized

2. Bearer notes with interest coupons attached (hereinafter referred to as coupon notes) may be exchanged for notes registered as to principal and interest upon presentation and surrender of the coupon notes to a Federal Reserve Bank or Branch or the Bureau of the Public Debt, Division of Loans and Currency, Washington 25, D.C., with specific instructions for the issuance and delivery of the registered notes, signed by the owner or his authorized representative. Upon receipt, the notes presented will be cancelled and retired and new registered notes in an equal face amount will be issued and delivered. Such notes will be of the same loan and issue as those presented.

3. The coupon notes submitted for exchange must be forwarded at the risk and expense of their owners, and should ordinarily be forwarded, for the owners' protection, by registered mail, covered by insurance, or by express prepaid. The registered notes will be delivered by registered mail at the risk of, but without expense to, the registered owner, except that securities will be delivered by express collect or by other means if written instructions to such effect are duly received by the official agency to which the coupon notes were presented.

4. Provision will be made for the interchange of notes of different denominations and of registered for coupon notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F.R. Doc. 60-413; Filed, Jan. 14, 1960; 8:53 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary
[Order No. 2508, Amdt. 32]

BUREAU OF INDIAN AFFAIRS Delegation of Authority With Respect to Forestry

JANUARY 7, 1960.

Section 16 of Order No. 2508 (14 F.R. 258; 23 F.R. 9194; 24 F.R. 5251) is amended in its entirety to read as follows:

Sec. 16. Forestry. The Commissioner may exercise the authority of the Secretary in relation to the following classes of matters; actions taken hereunder shall be subject to appeal to the Secretary in accordance with Section 1 of this Order.

(a) All those matters set forth in 25 CFR Chapter I, Subchapter M—Forestry.

No. 10---5

- · (b) The adjustment of stumpage rates and the performing of all other administrative actions to be taken by the Secretary pursuant to timber sales contracts now in effect.
- (c) The fixing of the fair stumpage value of the annual timber cut on the Menominee Indian Reservation, Wisconsin, and the approval of stumpage payments to the Menominee Indians, pursuant to the provisions of the Act of March 28, 1908 (35 Stat. 51), as amended by the Act of June 15, 1934 (48 Stat. 964).
- (d) The administration of existing and the negotiation and execution of new cooperative fire suppression agreements with Federal, State and private agencies.
- (e) The taking of any action necessary to prevent waste of timber from fire, decay, windthrow, insect infestation, disease or either natural catastrophe on Indian lands held in trust by the United States.

FRED A. SEATON. Secretary of the Interior.

[F.R. Doc. 60-381; Filed, Jan. 14, 1960; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[Amdt. III]

MARKETING QUOTA REVIEW COMMITTEES

Notice of Establishment of Areas of Venue

Pursuant to section 3(a)(1) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1002) which requires that the field organization be published in the FEDERAL REGISTER and § 711.11 of the Marketing Quota Review Regulations (21 F.R. 9365, 9716, 24 F.R. 10868) which provides for establishment of areas of venue for marketing quota review committees, notice is hereby given that the areas of venue established for the following States (24 F.R. 1320, 2409, 25 F.R. 87) have been revised and established by the ASC State committees as • follows:

ALABAMA

Counties of: Area V—Add: Coosa. Area VI—Add: Perry. Area VII-Remove: Perry. Area VIII-Remove: Coosa.

ALASKA

None.

GEORGIA Counties of:

Area I—Banks, Bartow, Catoosa, Chattooga, Cherokee, Dade, Dawson, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Habersham, Hall, Hart, Lumpkin, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White, Whitfield.

Area II-Carroll, Clayton, Cobb, Coweta, Crawford, DeKalb, Douglas, Fayette, Fulton, Haralson, Harris, Heard, Henry, Lamar, Meriwether, Muscogee, Paulding, Peach, Pike, Polk, Spalding, Talbot, Taylor, Troup, Upson. Area III—Baker, Calhoun, Chattahoochee,

Clay, Crisp, Decatur, Dooly, Dougherty, Early, Grady, Lee, Macon, Marion, Miller, Mitchell, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Terrell, Thomas, Webster.

Area IV-Baldwin, Barrow, Bibb, Butts, Clarke, Elbert, Greene, Gwinnett, Hancock, Jackson, Jasper, Jones, Madison, Morgan, Monroe, Newton, Oconee, Oglethorpe, Put-nam, Rockdale, Taliaferro, Walton, Wilkes.

Area V-Ben Hill, Berrien, Bleckley, Brooks, Colquitt, Cook, Dodge, Houston, Irwin, Laurens, Lowndes, Montgomery, Pulaski, Telfair, Tift, Treutlen, Turner, Twiggs, Wheeler, Wilcox, Wilkinson, Worth.

Area VI-Bryan, Bulloch, Burke, Candler, Chatham, Columbia, Effingham, Emanuel, Evans, Glascock, Glynn, Jefferson, Jenkins, Johnson, Liberty, Lincoln, Long, McDuffle, McIntosh, Richmond, Screven, Tattnall. Toombs, Warren, Washington.
Area VII—Appling, Atkinson,

Brantley, Camden, Charlton, Clinch, Coffee, Echols, Lanier, Jeff Davis, Pierce, Ware,

HAWAII

None.

IDAHO

Counties of: Area I—Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Teton.

Area II—Bannock, Blaine, Butte, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka, Power, Twin Falls.

Area III-Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington.

Area IV-Clearwater, Idaho, Lewis, Nez Perce.

Area V-Benewah, Bonner, Boundary, Kootenai, Latan.

Areas VI and VII-(All deleted).

ILLINOIS

Counties of: Area I-Jo Daviess, Ogle, Stephenson, Winnebago.

Area II—Boone, Lake, McHenry. Area III—Cook, DeKalb, DuPage, Kane.

Area IV-Carroll, Lee, Whiteside.

Area V-Bureau, Henry, Rock Island, Stark. Area VI-Henderson, Knox, Mercer, Warren.

Area VII-Grundy, Kankakee, Kendall, Will.

Area VIII-La Salle, Livingston, Marshall, Putnam.

Area IX-McLean, Peoria, Tazewell, Woodford.

Area X—Ford, Iroquois, Vermilion. Area XI—Champaign, Douglas, Edgar,

Area XII-DeWitt, Logan, Macon, Sanga-

Area XIII—Fulton, Mason, Menard. Area XIV—Adams, Hancock, McDonough, Schuyler.

Area XV-Brown, Cass, Morgan, Scott. Area XVI-Calhoun, Greene, Pike.

Area XVII—Jersey, Macoupin, Madison. Area XVIII—Bond, Clinton, Montgomery.

Area XIX—Monroe, St. Clair, Washington. Area XX—Christian, Fayette, Shelby.

XXI-Clark, Coles, Cumberland, Moultrie

Area XXII-Clay, Crawford, Effingham, Jasper.

Area XXIII-Edwards, Lawrence, Richland,

Area XXIV—Jefferson, Marion, Wayne. Area XXV—Gallatin, Hamilton, Salina, White.

Area XXVI-Franklin, Jackson, Perry, Randolph.

Area XXVII-Alexander, Union, Pulaski, Williamson.

Area XXVIII-Hardin, Johnson, Massac. Pope.

Areas XXIX through XXXI-(All deleted).

INDIANA

Counties of:

Area I-Benton, Elkhart, Jasper, Kosciusko, Lake, La Porte, Marshall, Newton, Porter, St. Joseph, Starke.

Area II-Adams, Allen, Blackford, De Kalb, Grant, Huntington, Jay, LaGrange, Noble, Steuben, Wells, Whitley.

Area III-Carroll, Cass, Clinton, Fulton, Howard, Miami, Pulaski, Tippecanoe, Tipton,

Wabash, White.

Area IV—Boone, Fountain, Hamilton Hendricks, Marion, Montgomery, Parke, Putnam, Vermillion, Vigo, Warren.

Area V—Decatur, Delaware, Fayette, Franklin, Hancock, Henry, Madison, Randolph, Rush, Shelby, Union, Wayne.

Area VI—Bartholomew, Brown, Clay, Greene, Johnson, Lawrence, Martin, Monroe, Morgan, Orange, Owen, Sullivan. Area VII—Clark, Dearborn, Floyd, Harri-

son, Jackson, Jefferson, Jennings, Ohio, Ripley, Scott, Switzerland, Washington.

Area VIII—Crawford, Daviess, Dubois, Gibson, Knox, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick.

Area IX-(All deleted).

IOWA

Counties of: Area I-Buena Vista, Cherokee, Clay, Dickinson, Emmet, Hancock, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Sioux,

Winnebago.

Area II—Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Fayette, Floyd, Howard, Mitchell, Winneshiek, Worth.

Area III-Calhoun, Carroll, Crawford, Franklin, Hamilton, Hardin, Humboldt, Ida, Monona, Pocahontas, Sac, Webster, Woodbury, Wright.

Area IV-Benton, Cedar, Clinton, Delaware, Dubuque, Grundy, Iowa, Jackson, Jones, Linn, Marion, Jasper, Johnson, Poweshiek, Tama.

Area V-Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, East Pottawattamie, West Pottawattamie, Shelby, Taylor.

Area VI-Boone, Clarke, Dallas, Decatur, Greene, Lucas, Madison, Marshall, Polk, Ring-

gold, Story, Union, Warren, Wayne.
Area VII—Appanoose, Davis, Des Moines,
Henry, Jefferson, Keokuk, Lee, Louisa, Mahaska, Monroe, Muscatine, Scott, Van Buren, Wapello, Washington.

KENTUCKY

Counties of:

Area I-Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, Lyon, McCracken, Marshall, Trigg.

Area II-Breckenridge, Caldwell, Christian, Daviess, Hancock, Henderson, Hopkins, Mc-Lean, Muhlenberg, Ohio, Union, Webster.

Area III—Adair, Allen, Barren, Butler, Clinton, Cumberland, Logan, Metcalfe, Monroe, Simpson, Todd, Warren.
Area IV—Anderson, Bullitt, Franklin,

Grayson, Hardin, Henry, Jefferson, Meade, Nelson, Oldham, Shelby, Spencer.

Area V-Boyle, Casey, Edmonson, Garrard, Green, Hart, Larue, Lincoln, Marion, Mercer, Taylor, Washington.

Area VI-Bell, Clay, Harlan, Jackson, Knox, Laurel, McCreary, Pulaski, Rockcastle, Rus-

sell, Wayne, Whitley.
Area VII—Boyd, Breathitt, Floyd, Johnson,
Knott, Lawrence, Leslie, Letcher, Magoffin,

Martin, Perry, Pike.
Area VIII—Clark, Estill, Fayette, Jessamine, Lee, Madison, Menifee, Montgomery,

Morgan, Owsley, Powell, Wolfe. Area IX—Bath, Bourbon, Carter, Elliott, Fleming, Greenup, Harrison, Lewis, Mason, Nicholas, Robertson, Rowan.

Area X-Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, Pendleton, Scott, Trimble, Woodford.

MICHIGAN

Area IV-Correction in spelling: Newaygo. MISSOURI

Counties of:

I-Caldwell, Carroll, Chariton, Area Grundy, Jackson, Lafayette, Linn, Livingston, Mercer, Putnam, Ray, Saline, Sullivan.

Area II-Adair, Audrain, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Randolph, Schuyler, Scotland, Shelby.

Area III—Andrew, Atchison, Buchanan, Clay, Clinton, Daviess, DeKalb, Gentry, Harrison, Holt, Nodaway, Platte, Worth.

Area IV—Callaway, Crawford, Franklin, Gasconade, Lincoln, Maries, Montgomery, Osage, Phelps, Pike, St. Charles, St. Louis, Warren.

Area V-Bollinger, Carter, Dent, Iron, Jefferson, Madison, Perry, Reynolds, St. Francois, Ste. Genevieve, Shannon, Washington.

Area VI-Butler, Cape Girardeau, Dunklin,

Area VI—Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Ripley, Scott, Stoddard, Wayne.
Area VII—Barry, Christian, Douglas, Greene, Howell, Jasper, Lawrence, McDonald, Newton, Ozark, Stone, Taney, Texas.
Area VIII—Barton, Camden, Cedar, Dade, Dellas Hickory, Laclede, Poll. Pulaski, St.

Dallas, Hickory, Laclede, Polk, Pulaski, St. Clair, Vernon, Webster, Wright. Area IX—Bates, Benton, Boone, Cass, Cole,

Cooper, Henry, Howard, Johnson, Miller, Moniteau, Morgan, Pettis.

NEBRASKA

Counties of:

Area I-Banner, Box Butte, Cheyenne, Dawes, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux.

Area II-Arthur, Blaine, Brown, Buffalo, Cherry, Custer, Dawson, Grant, Hooker, Keya Paha, Lincoln, Logan, McPherson, Rock, Thomas.

Area III-Boone, Boyd, Garfield, Greeley, Holt, Howard, Loup, Merrick, Nance, Platte, Sherman, Valley, Wheeler.

Area IV-Antelope, Burt, Cedar, Cuming, Dakota, Dixon, Knox, Madison, Pierce, Stanton, Thurston, Wayne.

Area V—Chase, Deuel, Dundy, Frontier,

Garden; Hayes, Hitchcock, Keith, Perkins, Red Willow.

Area VI-Adams, Clay, Franklin, Furnas, Gosper, Hall, Hamilton, Harlan, Kearney; Phelps, Webster.

Area VII-Butler, Cass, Colfax, Dodge, Douglas, Lancaster, 2000. Seward, Washington, York. Douglas, Lancaster, Polk, Sarpy, Saunders,

Area VIII—Fillmore, Gage, Jefferson, Johnson, Nemaha, Nuckolls, Otoe, Pawnee, Jefferson. Richardson, Saline, Thayer.

Area IX—(All deleted).

NEW HAMPSHIRE

None.

Оню

Counties of:

Area I-Crawford, Erie, Fulton, Henry, Huron, Lucas, Ottawa, Sandusky, Seneca, Wood. Area II-Ashland, Knox, Coshocton, Wayne, Holmes, Lorain, Tuscarawas, Carroll, Harrison, Jefferson, Belmont.

Area III-Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Mahoning, Medina, Port-

age, Stark, Summit, Trumbull. Area IV—Defiance, Paulding, Putnam, Van

Wert, Williams. Area V-Allen, Auglaize, Hancock, Hardin,

Logan, Mercer. Area VI—Clark, Champaign, Madison, Marion, Delaware, Franklin, Fayette, Pick-away, Morrow, Richland, Union.

Area VII—Butler, Clermont, Clinton, Darke, Greene, Hamilton, Miami, Montgomery, Preble, Shelby, Warren.

Area VIII—Adams, Brown, Highland, Ross, Scioto, Pike, Lawrence, Jackson, Meigs, Vin-

Area IX-Athens, Fairfield, Guernsey, Hocking, Licking, Monroe, Muskingum, Morgan, Noble, Perry, Washington.
Areas X and XI—(All deleted).

TENNESSEE

Area VII-Remove: Decatur. Add: Hickman.

Area VIII-Remove: Hickman. Add: Decatur.

VIRGINIA

Area IV-Remove: Warwick. Add: Newport News.

WISCONSIN

Area I-Remove: Door. Area III-Add: Door.

(Sec. 3, 60 Stat. 238; 5 U.S.C. 1002. Interpret or apply sec. 363, 52 Stat. 63, as amended; 7 U.S.C. 1363)

Done at Washington, D.C., this 12th day of January 1960.

> WALTER C. BERGER. Administrator.

Commodity Stabilization Service.

[F.R. Doc. 60-406; Filed, Jan. 14, 1960; 8:52 a.m.]

Office of the Secretary MONTANA AND WYOMING

Designation of Counties Within the Great Plains Area of the Ten Great Plains States Where the Great Plains Conservation Program Is Specifically Applicable

For the purpose of making contracts based upon an approved plan of farming operations pursuant to the Act of August 7) 1956 (70 Stat. 1115-1117), the following counties of the following States are designated as susceptible to serious wind erosion by reason of their soil types, terrain, and climatic and other factors.

MONTANA

Blaine.

WYOMING

Natrona.

Done at Washington, D.C., this 12th day of January 1960.

[SEAL]

E. L. PETERSON. Assistant Secretary.

[F.R. Doc. 60-410; Filed, Jan. 14, 1960; 8:52 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board AMERICAN EXPORT LINES, INC., ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8005-2, between American Export Lines, Inc., Bull-Insular Line, Inc., American Stevedores, Inc., Packet Shipping Corporation, et al., modifies approved Agreement No. 8005, as amended, which provides for the regulations and practices with respect to services to truckers of loading and unloading of cargo onto or from trucks in the Port of Greater New York and vicinity. The purpose of the modification is to amend Agreement No. 8005, as amended by providing (1) that Steam-

ship Companies, as common carriers by water may become parties to the agreement under specified conditions, (2) for the fixing of free time and demurrage rates and charges only in the trades not covered by an approved section 15 agreement and (3) that the name of the agreement shall be changed to the "New York Terminal Conference Agreement".

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: January 11, 1960.

By order of the Federal Maritime Board.

> JAMES L. PIMPER, Secretary.

IF.R. Doc. 60-395: Filed. Jan. 14, 1960; 8:50 a.m.1

MEMBER LINES OF THE TRANS-PACIFIC PASSENGER CONFERENCE ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

- (1) Agreement No. 131-230, between the member lines of the Trans-Pacific Passenger Conference, modifies By-Law D-2 of the basic conference agreement (No. 131, as amended), to clarify the understanding of the member lines with respect to the application of free or reduced rates for ocean passage, and to specifically provide for the granting of free or reduced rates to group organizers as set forth in the agreement.
- (2) Agreement No. 131-232, between the member lines of the Trans-Pacific Passenger Conference, modifies By-Law A-6 of the basic conference agreement (No. 131, as amended), to provide for authorized committees of the conference in the Orient, Australia, New Zealand, and Hawaii. The conference agreement presently provides for committees in the Orient, and for conference representatives in Australia and Hawaii.
- (3) Agreement No. 8050-2, between member lines of the Ceylon/U.S.A. Conference, modifies the basic agreement of that Conference (No. 8050, as amended), which covers the trade from Ceylon to United States Atlantic and Gulf ports, by direct call or transshipment. The purpose of the modification is to provide that the vote of the member lines in urgent matters may be taken by telephone, provided such vote is unanimous and confirmed at the next conference meeting.

(4) Agreement No. 8275-1, between Stockard Steamship Corporation and Atlantic Ocean Transport Corporation (carriers comprising the Levant Line joint service, Agreement No. 7812, as amended), Mediterranean Transport Corporation, and West Coast Line, Inc., modifies approved Agreement No. 8275, covering an arrangement under which West Coast Line, Inc. furnishes complete terminal facilities for Levant Line at New Orleans. The purpose of the modification is to provide for the participation of Mediterranean Transport Corporation in Agreement No. 8275 as a party to the Levant Line joint service.

(5) Agreement No. 8387-1, between Transamerican Steamship Corporation (Transcaribbean Line), and Sartori & Berger (Michigan Ocean Line), modifies approved Agreement No. 8387, covering a sailing arrangement in the trade from ports of the Great Lakes of the United States and Canada, the St. Lawrence River, Nova Scotia, New Brunswick and Newfoundland, on the one hand, to ports in the Caribbean and on the North Coast of South America, on the other hand (not including transportation within the purview of the coastwise laws of the United States). The purpose of the modification is to provide for an extension of the cancellation date from December 31, 1959, as presently provided in the agreement, to February 28, 1960, or any year following.

(6) Agreement No. 8426, between Farrell Lines Incorporated and Mississippi Shipping Company, Inc., covers a through billing arrangement in the trade between Harbel, Grand Bassa, Sinoe and Cape Palmas, Liberia, and United States Gulf ports, with transshipment at Monrovia, Liberia. Agreement No. 8426, upon approval, will supersede and cancel approved Agreements Nos. 7745, as amended, and 8041.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the Ffderal Register, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: January 11, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER, Secretary.

[F.R. Doc. 60-396; Filed, Jan. 14, 1960; 8:50 a.m.]

COASTWISE LINE AND PUGET SOUND-ALASKA VAN LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8427, between Coastwise Line and Puget Sound-Alaska Van Lines, Inc., covers a through billing arrangement in the trade between California ports and Alaskan ports via Seattle, and between Seattle and Alaskan ports.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the Federal Register, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: January 11, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER, Secretary.

[F.R. Doc. 60-397; Filed, Jan. 14, 1960; 8:50 a.m.]

MITSUI STEAMSHIP CO., LTD., ET AL.

Notice of Agreements Filed for Appróval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

- (1) Agreement No. 8432, between Mitsui Steamship Co., Ltd., and N.Y. K. Line, Ltd:
- (2) Agreement No. 8433, between Kawasaki Kisen Kaisha, Ltd., Osaka Shosen Kaisha, Ltd., and Yamashita Steamship Co., Ltd.; and
- (3) Agreement No. 8434, between Daido Kaiun Kaisha, Ltd., Mitsubishi Kaiun Kaisha, Ltd., Iino Kaiun Kaisha, Ltd., and Shinnihon Steamship Co., Ltd.; are similar agreements covering sailing and pooling arrangements of the parties under the respective agreements in the trade from Japan to U.S. Atlantic Coast ports.
- (4) Agreement No. 8431, between the nine (9) Japanese carriers parties to Agreements Nos. 8432, 8433 and 8434, described above, sets forth the understanding of the parties with respect to sailings in the trade from Japan to U.S. Atlantic ports, and return.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the Federal Register, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: January 11, 1960.

By order of the Federal Maritime Board.

James L. Pimper, Secretary.

[F.R. Doc. 60–398; Filed, Jan. 14, 1960; 8:50 a.m.]

[Docket No. 881]

GENERAL INCREASES IN ALASKAN RATES AND CHARGES

Notice of Investigation, of Hearing, and of Prehearing Conference

On January 7, 1960, the Federal Maritime Board entered the following order:

It appearing, that there have been filed with the Federal Maritime Board tariff schedules setting forth new increased rates and charges, and new rules, regulations and practices affecting such rates and charges, between Pacific Coast ports on the one hand and ports and points in Alaska on the other, also between ports within Alaska, published to become effective January 10, 1960, and later, as designated in Appendix A attached; and

It further appearing, that the Board, upon consideration of the said schedules and the protests thereto, is of the opinion that the new rates and charges and the new rules and regulations and practices named therein should be made the subject of a public investigation and hearing to determine whether they are just and reasonable and otherwise lawful under the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, as amended; and

It further appearing, that Alaska Steamship Company, Coastwise Line, and Garrison Fast Freight, (Division of Consolidated Freightways, Inc.), have agreed that if such schedules are permitted to go into effect without suspension (1) to keep account of all freight moneys received by reason of the increased rates provided in such schedules commencing with the effective date of such filings and terminating on the effective date of the Board's order finally determining the reasonableness and lawfulness of the rates, charges, regulations and practices stated in said schedules; and (2) to refund to the person who paid the freight, upon proper authorization by the Board, any freight charges collected under said schedules during the said period which may be in excess of those determined by the Board to be just and reasonable;

It is ordered, That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the rates, charges, rules and regulations contained in said schedules, under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, with a view to making such findings and order in the premises as the facts and circumstances shall warrant;

It is further ordered, That Alaska Steamship Company, Coastwise Line, and Garrison Fast Freight (Division of Consolidated Freightways, Inc.) (1) shall keep an account of all freight moneys received by reason of the increased rates provided in such schedules commencing with the effective date of such filings, and terminating with the effective date of the Board's order finally determining the reasonableness and lawfulness of the rates, charges, regulations and practices set forth in said schedules; (2) that such carriers, upon final determination by the Board, shall refund to

the person who paid the freight any freight charges collected under said schedules during the said period, which may be in excess of those determined by the Board to be just and reasonable and otherwise lawful; and

It is further ordered, That no change shall be made in the rates or other matters which were changed by said tariff schedules, until this investigation has been terminated by final order of the Board, unless otherwise authorized by special permission of the Board; and

It is further ordered, That the investigation in this proceeding shall not be confined to the matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said schedules and of all other freight schedules of the carriers named herein in effect between Pacific Coast ports on the one hand and ports and points in Alaska on the other, also between ports within Alaska, under the Shipping Act of 1916, as amended, and the Intercoastal Shipping Act of 1933, as amended; and

It is further ordered, That copies of this order shall be filed with said tariff schedules in the office of the Federal Maritime Board; and

It is further ordered, That the investigation herein ordered be assigned for hearing before an examiner of the Board's Hearing Examiners' Office at a date and place to be determined and an-. nounced by the Chief Examiner: that a copy of this order shall be forthwith served upon Alaska Steamship Company. Coastwise Line, and Garrison Fast Freight (Division of Consolidated Freightways, Inc.), and that said carriers be made respondents in this proceeding and that respondents and protestants be duly notified of the time and place of the hearing herein ordered; and that this order be published in the FEDERAL REGISTER.

APPENDIX A

ALASKA STEAMSHIP COMPANY

F.M.B.-F. No. 104, cancelling F.M.B.-F. No. 96; F.M.B.-F. No. 105, cancelling F.M.B.-F. No. 99; Supplement No. 3 to F.M.B.-F. No. 89; Supplement No. 4 to F.M.B.-F. No. 90; Supplement No. 4 to F.M.B.-F. No. 91; Supplement No. 2 to F.M.B.-F. No. 92; Supplement No. 3 to F.M.B.-F. No. 93; Supplement No. 3 to F.M.B.-F. No. 94; Supplement No. 3 to F.M.B.-F. No. 98. Effective January 10, 1960.

COASTWISE LINE, AGENT C. R. NICKERSON

Supplement No. 6 to F.M.B.-F. No. 5; Supplement No. 5 to F.M.B.-F. No. 6. Effective January 10, 1960.

GARRISON FAST FREIGHT
DIVISION OF CONSOLIDATED FREIGHTWAYS, INC.

Tariff F.M.B.-F. No. 1: Second Revised Page No. 16, Second Revised Page No. 17, First Revised Page No. 19-B, Second Revised Page No. 34, Fourth Revised Page No. 35, Fourth Revised Page No. 36, Fourth Revised Page No. 37, Third Revised Page No. 38, Third Revised Page No. 40, Second Revised Page No. 41, Third Revised Page No. 42, Fourth Revised Page No. 43, Third Revised Page No. 44, Fourth Revised Page No. 45, Third Revised Page No. 46, Fourth Revised Page No. 47-A, Fourth Revised Page No. 47, Original Page No. 47-A, Fourth Revised Page No. 48, Fourth Revis

49, Fourth Revised Page No. 50, Third Revised Page No. 51, First Revised Page No. 52, Third Revised Page No. 53, Second Revised Page No. 54; effective January 27, 1960.

Notice is hereby given that, in accordance with Rule 6(d) of the Board's rules of practice and procedure, 46 CFR 201.94, a prehearing conference in this proceeding will be held before Examiner Arnold J. Roth on January 27, 1960, at 10 a.m., in Room 4519, New General Accounting Office Building, 441 G Street NW., Washington, D.C. Thereafter a public hearing will be scheduled at a date and place to be announced. Said hearing will be conducted in accordance with the above rules, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary, Federal Maritime Board, promptly and file petitions for leave to intervene in accordance with Rule 5(n), 46 CFR 201.74, of the above rules.

By order of the Federal Maritime Board.

Dated: January 12, 1960.

JAMES L. PIMPER, Secretary.

[F.R. Doc. 60-448; Filed, Jan. 14, 1960; 8:53 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 4251 etc.]

GREAT LAKES LOCAL SERVICE INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on February 2, 1960, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., January 12, 1960.

[SEAL]

Francis W. Brown, Chief Examiner.

[F.R. Doc. 60-393; Filed, Jan. 14, 1960; 8:51 a.m.]

[Docket 10161]

MOHAWK AIRLINES, INC. TEM-PORARY POINTS CASE

Notice of Prehearing Conference

In the matter of the renewal of Mohawk Airlines, Inc. Temporary intermediate points.

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on January 19, 1960, at 10:00 a.m., e.s.t., in Room 925, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Barron Fredericks.

Dated at Washington, D.C., January 11, 1960.

[SEAL]

Francis W. Brown, Chief Examiner.

[F.R. Doc. 60-394; Filed, Jan. 14, 1960; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12054 etc.; FCC 60M-55]

TELEVISION BROADCAST STATIONS; COLUMBUS, GA.

Memorandum of Rulings

In the matter of amendment of § 3.606, Table of Assignments, Television Broadcast Stations (Columbus, Georgia), and Order directing WTVY, Inc., to show cause why its authorization for Station WTVY, Dothan, Alabama, should not be modified to specify operation on Channel 4 in lieu of Channel 9, Docket No. 12054.

On January 5, 1960, WTVY, Inc., filed a motion for continuance, of not less than 90 days, of the hearing which had been scheduled for January 18, 1960. Oral argument was heard on the motion at a prehearing conference today. For reasons which will appear in the transcript, the Hearing Examiner denied the motion for continuance, as such. However, the hearing of January 18 was continued to Friday, January 22, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.; and a further prehearing conference was scheduled for Monday, January 11, 1960, at 10 a.m.

Dated: January 7, 1960.

Released: January 11, 1960.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

MARY JANE MORRIS, Secretary.

[F.R. Doc. 60-353; Filed, Jan. 14, 1960; 8:50 a.m.]

[Docket No. 12615 et al.; FCC 60M-62]

COOKEVILLE BROADCASTING CO. ET AL.

Order Scheduling Hearing

In re applications of Hamilton Parks, tr/as Cookeville Broadcasting Company, Cookeville, Tennessee, et al. Docket No. 12615, File No. BP-11518, Docket Nos. 12960, 12962, 12964, 12965, 12966, 12967, 12968, 12970, 12071, 12972, 12973, 12974, 12977, 12978, 12979, 12981, 12982, 12983, 12984; for construction permits.

Pursuant to agreements reached by counsel for all participants at the further prehearing conference held on this day, and as fully explained on the record thus made,

It is ordered, This 8th day of January 1960, that the following dates for procedural steps shall govern in this proceeding:

Exchange of engineering exhibits: Group 3, February 15, 1960.

Group 1, March 1, 1960. Group 2, March 15, 1960.

Exchange of exhibits on non-engineering issues:

Group 3, March 11, 1960. Group 1, March 28, 1960. Group 2, April 11, 1960.

Requests for additional information and notification of witnesses desired for cross-examination:

Group 3, March 18, 1960. Group 1, April 4, 1960. Group 2, April 18, 1960.

Commencement of hearing upon all applicable issues:

Group 3, March 24, 1960, Group 1, April 12, 1960. Group 2, April 26, 1960.

Released: January 12, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,

Secretary. sideration

[F.R. Doc. 60-400; Filed, Jan. 14, 1960; 8:51 a.m.]

[Docket No. 13090 etc.; FCC 60M-57]

FREDERICKSBURG BROADCASTING CORP. (WFVA) ET AL.

Order Scheduling Prehearing Conference

In re applications of Fredericksburg Broadcasting Corporation (WFVA), Fredericksburg, Virginia, et al., Docket No. 13090, File No. BP-11550, Docket Nos. 13091, 13092, 13093, 13094, 13095, 13096, 13097, 13098, 13099, 13100, 13101, 13102, 13103, 13104, 13105, 13106, 13107, 13108, 13109, 13110, 13111, 13112, 13113, 13114, 13115, 13116, 13118, 13120, 13121, 13122, 13123, 13124, 13125, 13126, 13127, 13129, 13130, 13131, 13132, 13133, 13134, 13135, 13136, 13137, 13138, 13139, 13140, 13141, 13142, 13143, 13144, 13145, 13146, 13147, 13327; for construction permits.

The Hearing Examiner having under consideration a "Motion for Extension of Time" filed in the above-entitled matter by Century Broadcating Corporations (WCRO), applicant in Docket No. 13118, which motion requests that the exchange of engineering exhibits pertaining to Group 4 of this proceeding be on January 25, 1960, instead of January 11, 1960, and that the further prehearing conference be on February 8, 1960 (this date, however, is not open) instead of January 25, 1960, and

It appearing that counsel for all applicants in Group 4 and counsel for the Broadcast Bureau consent to the granting of the relief requested and that good cause therefor has been shown,

It is ordered, This 7th day of January 1960, that the following dates shall apply for Group 4: Engineering exchange date—January 25, 1960; Further prehearing conference—10:00 a.m., February 9, 1960, in the Commission's offices in Washington, D.C.

Released: January 11, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 60-401; Filed, Jan. 14, 1960; 8:51 a.m.]

[Docket Nos. 13346, 13347, FCC 60-15]

DAVID L. KURTZ AND BRANDYWINE BROADCASTING CORP.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of David L. Kurtz, Philadelphia, Pennsylvania, Docket No. 13346, File No. BPH-2774, Req.: 100.3 Mc, #262; 9.4 kw; 128 ft., Brandywine Broadcasting Corporation, Media, Pennsylvania, Docket No. 13347, File No. BPH-2803, Req.: 100.3 Mc, #262; 2.738 kw; 433 ft., for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 6th day of January 1960;

The Commission having under consideration the above-captioned and described applications:

It appearing that except as indicated by the issues specified below, the instant applicants are legally, technically, financially, and otherwise qualified to operate and construct the instant proposals; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated October 22, 1959, and incorporated herein by reference, notified the applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity, and that a copy of the aforementioned letter is available for public inspection at the Commission's offices: and

It further appearing that the applicants' replies to the aforementioned letter have not entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring a hearing on the particular issues hereinafter specified; and

It further appearing that after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below:

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues.

1. To determine the areas and populations within the 1 mv/m contours of the operations proposed, respectively, by David L. Kurtz and Brandywine Broadcasting Corporation, and the availability of other such FM broadcast service to the said areas and populations.

2. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would better provide a fair,

efficient and equitable distribution of radio service.

3. To determine, in the light of the evidence adduced, pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.140 of the Commission's rules in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: January 11, 1960.

FEDERAL COMMUNICATIONS COMMISSION, MARY JANE MORRIS,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 60-402; Filed, Jan. 14, 1960; 8:51 a.m.]

[Docket Nos. 12919, 12920; FCC 60M-56]

ROBERT L. LIPPERT AND MID-AMERICA BROADCASTERS, INC. (KOBY)

Order Continuing Hearing

In re applications of Robert L. Lippert, Fresno, California, Docket No. 12919, File No. BP-10345; Mid-America-Broadcasters, Inc. (KOBY), San Francisco, California, Docket No. 12920, File No. BP-12744, for construction permits for standard broadcast stations.

The Hearing Examiner having under consideration a joint Motion for Additional Time, filed by counsel for applicants Lippert and Mid-America, on January 5, 1960, to the grant of which counsel for the Broadcast Bureau and for respondent McClatchy Newspapers have no objection;

It is ordered, This 7th day of January 1960, that the motion is granted, and that the time is extended as follows:

From January 15, 1960, to March 2, 1960—Exchange of engineering cases.

From January 22, 1960, to March 9, 1960—Broadcast Bureau to advise of engineering discrepancies, if any.

From January 29, 1960, to March 16, 1960—Revised engineering data, if any, to be submitted. (Engineering case frozen as of this date.)

From February 15, 1960, to March 30, 1960—Designation of witnesses desired for cross-examination.

From February 23, 1960, to April 6, 1960— Exchange of non-engineering exhibits. (Such exhibits frozen as of this date.) From March 1, 1960, to April 13, 1960—Commencement of hearing.

Released: January 11, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL]

Mary Jane Morris, Secretary.

[F.R. Doc. 60-403; Filed, Jan. 14, 1960; 8:51 a.m.]

[Docket No. 13350]

HOWARD E. SETTLE

Order To Show Cause

In the matter of Howard E. Settle, Hayward, California, Docket No. 13350; order to show cause why there should not be revoked the license for radio station WA-6792 aboard the vessel "Loafer."

There being under consideration the matter of an alleged violation of the Communications Act of 1934, as amended, and the Commission's rules by the above-named licensee;

It appearing that on August 30, 1959, the above-named licensee wilfully refused to permit an inspection of the captioned radio station by an authorized representative of the Commission's Field Engineering and Monitoring Bureau, in violation of section 303(n) of the Communications Act of 1934, as amended, and § 8.101(a) of the Commission's Rules; and

It further appearing that on August 30, 1959, while Edward M. Smith, Jr., an engineer assigned to the Commission's San Pedro Marine Office, San Pedro, California, was acting in his authorized capacity, the above-named licensee committed an unjustified act of violence upon the person of such engineer; and

It further appearing that the abovenamed licensee does not possess either the character qualifications or the predisposition to fulfill his responsibilities as a radio station licensee under the Communications Act; and had this condition been brought to the Commission's attention at the time the licensee's original application for a radio station license was pending, the Commission would have been warranted in refusing to grant such license, and would have refused to grant such license;

It is ordered, This 7th day of January 1960, pursuant to section 312(a) (2) and (4) and (c) of the Communications Act of 1934, as 'amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the above-named licensee show cause why the license for the captioned radio station should not be revoked and appear and give evidence in respect thereto at a hearing to be held at a time and

place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this Order by Certified Mail, Return Receipt Requested to the above-named licensee at 21564 Mission Boulevard, Hayward, California.

Released: January 11, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,

Secretary.

[F.R. Doc. 60-404; Filed, Jan. 14, 1960; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI60-3]

J. HIRAM MOORE ET AL.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 8, 1960.

On December 11, 1959, J. Hiram Moore, et al. (Moore), tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, Dated December 2, 1959.

Purchaser and producing area: El Paso Natural Gas Company (Lea County, New Mexico).

Rate schedule designation: Supplement No. 3 to Moore's FPC Gas Rate Schedule No.

Effective date: January 11, 1960.¹
Rate in effect: 10.5 cents per Mcf.²
Proposed increased rate: 15.5599 cents per

Mcf.²⁵
In support of its proposed increase,
Moore states that the increased rate is

hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such state-ment contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

¹The stated effective date is the first day after expiration of the required thirty days' notice.

² Subject to 0.4467 cents per Mcf charge for compression deducted by buyer.

³ Pressure Base is 14.65 psia.

not unreasonable and is, in fact, less than the joing price in the area. Moreover, such rate is rather conservative for the value of the gas and represents a lower price than the Commission has approved for comparable gas.

The increased rate and charge has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes and that Supplement No. 3 to Moore's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate contained in Supplement No. 3 to Moore's FPC Gas Rate Schedule No. 2.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until June 11, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the Supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioner Hussey dissenting).

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-377; Filed, Jan. 14, 1960; 8:47 a.m.]

[Docket Nos. G-20603-G-20609]

PHILLIPS PETROLEUM CO. ET. AL.

Order Providing for Hearings and Suspending Proposed Changes in Rates ¹

JANUARY 8, 1960.

In the matters of Phillips Petroleum Company, Docket No. G-20603; Shell Oil Company, Docket No. G-20604; Petroleum, Inc. (Operator), et al., Docket

¹ Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for

¹This order does not provide for the consolidation for hearing or disposition of the separately docketed matters covered herein, nor should it be so construed.

No. G-20605; Socony Mobil Oil Company, Inc., Docket No. G-20606; Wilcox Oil Company, Docket No. G-20607: Gulf Oil Corporation, Docket No. G-20608;

Kerr-McGee Oil Industries, Inc., Docket No. G-20609.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

					Notice of		Effective	Rate sus-	Cents per Mcf	
Docket No.	Respondent		Date tendered	date 2 un- less sus- pended		Rate in effect	Proposed increased rate			
G-20603	Phillips Petroleum Co	183	10	Kerr-McGee Oil Industries, Inc. (Panhandle Field, Gray and Carson Counties, Tex.).	12- 7-59	12- 9-59	1 9-60	6- 9-60	10. 7458	³ 11. 7518
,		288	4	Kerr-McGee Oil Industries, Inc. (Panhandle Field, Carson County, Tex.).	12- 7-59	12- 9-59	1- 9-60	6- 9-60	10. 7458	3 11. 7518
G-20604	Shéll Oil Co	49	7	Tennessee Gas Transmission Co. (Chatham Field, Jackson Parish, La.).	12- 8-59	12-10-59	1-10-60	6-10-60	9. 52685	4 16. 29407
G-20605	Petroleum, Inc. (Opera-	* 19		Colorado Interstate Gas Co. (Hugoton Field,	9- 1-59	12-11-59	1-11-60	6-11-60	(5)	
G-20606	tor) et al. Socony Mobil Oil Co., Inc.	19 147	1 24	Morton, Seward, and Haskell Counties, Kan.).	12- 9-59	12-11-59	1-11-60	6-11-60		3 12. 5
G~20000	Socony Mount On Co., Inc.	341	24	Warren Petroleum Corp. (Panhandle Field, Wheeler County, Tex.).	12-11-59	12-14-59	1-14-60	6-14-60	10. 7458	3 11. 7518
		148	26	Warren Petroleum Corp. (Panhandle Field, Wheeler County, Tex.).	12-11-59	12-14-59	1-14-60	6-14-60	10. 7458	3 11. 7518
G-20607	Wilcox Oil Co	2	1	Citles Service Gas Co. (Eureka Field, Grant and Alfalfa Counties, Okla.).	12- 8-59	12-14-59	1-14-60	6-14-60	12.0	8 6 13. 0
G-20608	Gulf Oil Corp	99	1	Cities Service Gas Co. (S. E. Gibbon Field,	Undated	12-14-59	1-15-60.	61560	12.0	3 6 13. 0
G-20609	Kerr-McGee Oil Indus- tries, Inc.	53	4	Grant County, Okla.). Natural Gas Pipe Line Co. of America (Camrick S.E. Field, Texas County, Okla.).	12-10-59	12-14-59	1-23-60	6-23-60	7 16. 6	\$ 16. 8

² The stated effective dates are those requested by respondents, or the first day after expiration of statutory notice, whichever is later.

² 14.65 psia pressure base.

⁴ 15.025 psia pressure base.

Schedule No. 7, as amended. The present rate under Rate Schedule No. 7 is 12.0 cents per Mcf subject to BTU adjustment.

6 Includes 0.75 cents per Mcf for dehydration deducted by buyer.

7 Rate in effect subject to refund in Docket No. G-17610.

The increased rates proposed by Phillips Petroleum Company (Phillips) and by Socony Mobil Oil Company, Inc. (Socony) are based upon a determination by the Railroad Commission of Texas of the weighted average wellhead price of gas in the Panhandle Field. In support of their proposed redetermined rates, Phillips and Socony submit the determination and cite their contracts. Socony further states that its contracts were negotiated at arm's-length and that the increased rates are required to encourage further exploration and develop-

In support of its proposed renegotiated increased rate Shell Oil Company (Shell) submits copies of its renegotiated agreement, which establishes the proposed price and extends the contract term. Shell also states that its proposed rate is below the rates for sales in Louisiana which were certificated by the Commission.

In support of its proposed renegotiated increased rate, Petroleum, Inc. (Operator), et al. (Petroleum) submits its renegotiated contract and states that the contract benefits the buyer by conforming to the buyer's new standard contract in the area, by being free of take-or-pay provisions, and by including a new BTU adjustment clause which will impose penalties on Petroleum, reducing its net price to 10.8 cents per Mcf.

In support of their proposed periodic increased rates, Wilcox Oil Company (Wilcox) and Gulf Oil Corporation cite their contract provisions and state that the contracts were negotiated at arm'slength and that the proposed price is just and reasonable. Wilcox further states that it would not have dedicated its gas for such a long term without such pricing provisions to assure receipt of the market value of the gas. Wilcox adds that to deny the increase would be unjust and discriminatory, since other producers are receiving higher prices for gas in the area. Gulf refers to cost evidence submitted in the proceedings in Docket Nos. G-9520, et al. and states that the increased price is necessary as an incentive for further exploration and development.

In support of its proposed periodic increased rate, Kerr-McGee Oil Industries, Inc. (Kerr-McGee) cites its contract and , states that the periodic pricing provisions were negotiated at arm's-length in good faith and that the increased price is no higher than necessary to encourage further exploration and offset increasing Kerr-McGee also cites higher rates for initial services in the area.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commisison finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated rate schedule and supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increasd rates and charges contained in the above-designated rate schedule and supplements.

(B) Pending hearing and decision thereon, each of the aforementioned supplements and the rate schedule is suspended and the use thereof deferred until the date specified in the above-designated "Rate Suspended Until" column and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements nor rate schedule hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioner Hussey dissenting on the suspension of the rates in Docket No. G-20609, Kerr-McGee Oil Industries, Inc.).

> JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-378; Filed, Jan. 14, 1960; 8:48 a.m.]

[Docket No. G-19483]

SOUTHERN UNION GAS CO.

Order Denying Petition To Terminate Proceeding: Permitting Superseding Supplement To Be Substituted for Suspended Supplement; Providing for Hearing and Suspending Proposed Change in Rates Contained in Superseding Supplement

JANUARY 8, 1960.

On August 31, 1959, Southern Union Gas Company (Southern) tendered for filing proposed increased rates and charges for sales of natural gas from the Noelke Field, Crockett County, Texas, to El Paso Natural Gas Company (El Paso), which tender was designated as Supplement No. 2 to Southern's FPC Gas Rate Schedule No. 4. The aforesaid tender proposed to increase the level of rate from 9.5 cents to 12.0767 cents per Mcf and, by order issued September 25, 1959,1 was suspended to April 1, 1960, and until such further time as it is made

This rate schedule supersedes Petroleum, Inc. (Operator) et al., FPC Gas Rate

An Erratum Notice to the above order was issued October 22, 1959.

effective in the manner prescribed by the Natural Gas Act.

On December 3, 1959, Southern filed a petition requesting the Commission to terminate this suspension proceeding and to permit the increased rate of 12.0767 cents per Mcf to go into effect immediately. In support of its motion. Southern cites the favored-nation clause of its contract with El Paso and El Paso's favored-nation notification letter stating that El Paso began paying the proposed increased rate to producers in the Permian Basin, subject to refund, based on the spiral escalation increased rates of Phillips Petroleum Company. El Paso, an intervenor herein, protested the aforementioned proposed increased rate as being unilateral and contrary to the Mobile decision. Southern, however, denies the alleged unilateral nature of the increased rate and states that it was in accordance with the terms of the contract. In addition, Southern states that the petition should be granted based on the cost data submitted therewith.

On December 10, 1959, Southern tendered for filing a subsequent Notice of Change, dated December 4, 1959, which is designated as Supplement No. 3 to Southern's FPC Gas Rate Schedule No. 4 and supersedes the aforesaid Supplement No. 2. By Supplement No. 3, Southern proposes to increase the rate for sales of natural gas to El Paso from 9.5 cents per Mcf to 14.5 cents per Mcf and proposes the said change to become effective

as of January 1, 1960.

The proposed increased rate contained in Supplement No. 3 is provided for by an amendatory agreement, dated October 26, 1959, with El Paso, resulting from El Paso's current contract renegotiation program in the Permian Basin. The agreement, submitted as part of the rate change, deletes the favored-nation clause of the contract, and provides for a 1.0 cent per Mcf periodic increase on August 1, 1964 and every five years thereafter, with a price-redetermination option in August 1969 and every five years thereafter.

In support of the aforementioned proposed rate contained in Supplement No. 3, Southern states that the proposed rate is consistent with other contracts negotiated by El Paso with other producers and will not result in any material triggering of favored-nation clauses. In addition, Southern submitted a cost-ofservice study for the properties involved for the twelve-months' period ending October 31, 1959.

Since Supplement No. 3 supersedes Supplement No. 2, the aforementioned Supplement No. 2 is therefore rendered moot and Supplement No. 3 should be permitted to be substituted therefor.

The increased rates and charges so proposed in Supplement No. 3 have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause has not been shown for granting Southern's petition that the suspended rate contained in Supplement No. 2 be made effective immediately and to terminate the suspension proceeding relating thereto.

(2) Good cause exists for permitting the aforesaid superseding Supplement No. 3 to be substituted for Supplement No. 2, thereby rendering said Supplement No. 2 moot as hereinafter ordered.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of Supplement No. 3 to Southern's FPC Gas Rate Schedule No. 4 and that the aforesaid Supplement No. 3 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Southern's motion filed December 3, 1959, requesting the Commission to place the increased rate contained in the aforementioned Supplement No. 2 to Southern's FPC Gas Rate Schedule No. 4 in effect immediately, and to terminate the suspension proceeding relating thereto in Docket No. G-19483, is hereby denied. "

(B) Permission is hereby granted to allow Supplement No. 3 to Southern's FPC Gas Rate Schedule No. 4 to be substituted for the aforesaid Supplement

No. 2 in this proceeding.

(C) The aforementioned Supplement No. 2 is hereby rendered moot and the proposed rate contained therein may not be placed in effect in the manner prescribed by the Natural Gas Act as set forth in our order issued herein on September 25, 1959.

- (D) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing will be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 3 to Southern's FPC Gas Rate Schedule
- (E) Pending hearing and decision thereon, said Supplement No. 3 is suspended and the use thereof deferred until June 10, 1960, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.
- (F) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.
- (G) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-379; Filed, Jan. 14, 1960; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3661]

DELAWARE POWER & LIGHT CO. AND EASTERN SHORE PUBLIC SERVICE CO. OF MARYLAND

Notice of Amendment Proposing One Year Extension in Which Subsidiary May Issue and Sell Notes and Common Stock and the Acquisition and Pledge of Same by Parent Com-

JANUARY 8, 1960.

Notice is hereby given that Delaware Power & Light Company ("Delaware"). a registered holding company, and The Eastern Shore Public Service Company of Maryland ("Maryland"), a whollyowned public-utility subsidiary of Delaware, have filed amendments No. 2 and No. 3 to the joint application-declaration / filed heretofore herein pursuant to sections 6(b), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 24(c)(3) (A) and (C). Such amendments are in regard to the following proposed transactions:

By order entered herein on February 13, 1958 (Holding Company Act Release No. 13680), the Commission authorized Maryland to issue and sell to Delaware for cash, at face amount or par value and in equal proportions: (1) its 5 percent promissory notes, due October 1, 1973, in an aggregate principal amount not in excess of \$2,000,000, and (2) its \$100 par value common capital stock in an aggregate number not in excess of 20,000 shares. In said order the Commission also authorized Delaware to acquire said notes and stock and to pledge the same with The New York Trust Company, Trustee, in accordance with the provisions of the Indenture of Mortgage and Deed of Trust of Delaware, dated as of October 1, 1943. The proceeds from the proposed issuance and sale of the notes and common stock were to be used by Maryland to reimburse its treasury for moneys previously expended for construction requirements and to provide funds for future construction requirements previously estimated by that company at \$5,334,835 for 1958 and \$2,608,000 for 1959.

Amendment No. 2, filed November 18, 1959, states that, prior to October 31, 1959, only \$1,000,000 principal amount of said notes and 10,000 shares of said common stock had been issued and sold by Maryland to Delaware and further states that Maryland's construction program has not progressed as rapidly as anticipated. Amendment No. 3, filed December 1, 1959, shows Maryland's construction requirements for 1958 as \$3.585,045 and estimates such requirements for 1959 and 1960 as \$2,087,079 and \$2,269,691, respectively. Accordingly, Maryland proposes to extend to December 31, 1960, the time within which the unused balance of \$1,000,000 of said notes and 10,000 shares of said common stock may be issued and sold by Mary-

²United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332.

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land and acquired and pledged by Delaware.

The Public Service Commission of Maryland, the State commission of the State in which Maryland is organized and doing business, has expressly authorized the requested extension of time to December 31, 1960.

Notice is further given that any interested person may, not later than January 27, 1960, at 5:30 p.m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said joint application-declaration, as amended, which he desires to controvert, or he may request that he be notified if the Commis-. sion should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date said joint application, as amended, or as further amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exception from its rules as provided in Rules 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-382; Filed, Jan. 14, 1960; 8:49 a.m.]

[File No. 70-3662]

DELAWARE POWER & LIGHT CO. AND EASTERN SHORE PUBLIC SERVICE CO. OF VIRGINIA

Notice of Amendment Proposing One Year Extension in Which Subsidiary May Issue and Sell Notes and Common Stock and the Acquisition and Pledge of Same by Parent Company

Notice is hereby given that Delaware Power & Light Company ("Delaware"), a registered holding company, and Eastern Shore Public Service Company of Virginia ("Virginia"), a wholly owned public-utility subsidiary of Delaware, have filed Amendments No. 3 and No. 4 to the joint application-declaration filed heretofore herein pursuant to section 6 (b), 10, and 12(d), of the Public Utility Holding Company Act of 1935 ("Act") and Rule 24(c)(3) (A) and (C). Such amendments are in regard to the following proposed transactions:

By order entered herein on February 13, 1958 (Holding Company Act Release No. 13681), the Commission authorized Virginia to issue and sell to Delaware for cash, at face amount or par value and in equal proportions: (1) its 5 percent promissory notes, due October 1, 1973, in an aggregate principal amount not in excess of \$500,000, and (2) its \$100 par value common capital stock in an aggregate number not in excess of 5,000 shares. In said order the Commission also authorized Delaware to acquire said notes and stock and to pledge the same

with The New York Trust Company, Trustee, in accordance with the provisions of the Indenture of Mortgage and Deed of Trust of Delaware dated as of October 1, 1943. The proceeds from the proposed issuance and sale of the notes and common stock were to be used by Virginia to reimburse its treasury for moneys previously expended for construction requirements and to provide funds for future construction requirements previously estimated by that company at \$587,114 for 1958 and \$1,518,275 for 1959.

Amendment No. 3, filed November 18, 1959, states that none of said notes or shares of common stock had been issued and sold by Virginia to Delaware and further states that Virginia's construction program has not progressed as rapidly as was anticipated. Amendment No. 4, filed December 1, 1959, shows Virginia's construction requirements for 1958 as \$306.135 and estimates such construction requirements for 1959 and 1960 as \$444,476 and \$417,600, respectively. Accordingly, Virginia proposes to extend to December 31, 1960, the time within which said notes and shares of common stock may be issued and sold by Virginia and acquired and pledged by Delaware.

The State Corporation Commission of Virginia, the State commission of the State in which Virginia is organized and doing business, has expressly authorized the requested extension of time through December 31 1960.

Notice is further given that any interested person may, not later than January 27, 1960, at 5:30 p.m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said joint application-declaration, as amended, which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date said joint application-declaration, as amended or as further amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exception from its rules as provided in Rules 20(a) and 100. or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-383; Filed, Jan. 14, 1960; 8:49 a.m.]

TARIFF COMMISSION

[7-85]

COTTON TYPEWRITER RIBBON CLOTH

Notice of Investigation and Hearing

Investigation instituted. Upon application of The Baltic Mills Company, Baltic, Connecticut, and others, received December 30, 1959, the United States

Tariff Commission, on the 11th day of January 1960, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted an investigation to determine whether cotton typewriter ribbon cloth is, as a result in whole or in part of the customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

"Cotton typewriter ribbon cloth", as used in the preceding paragraph, refers to "cotton cloth suitable for making typewriter ribbon, classifiable under subparagraph (a), (b), or (c) of paragraph 904 of the Tariff Act of 1930, containing yarns the average number of which exceeds No. 50 but not No. 140, the total thread count of which per square inch (counting warp and filling), is not less than 240 and not more than 340, and in which the thread count of either the warp or filling does not exceed 60 percent of the total thread count of the warp and filling."

Public hearing ordered. A public hearing in this investigation will be held beginning at 10 a.m., e.s.t., on April 20, 1960, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: January 12, 1960.

By order of the Commission.

[SEAL]

DONN N. BENT, Secretary.

[F.R. Doc. 60-390; Filed, Jan. 14, 1960; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[Taylor's I.C.C. Order 112; Rev. S. O. 562]

ST. LOUIS-SAN FRANCISCO RAILWAY

Diversion or Rerouting of Traffic

In the opinion of Charles W. Taylor, Agent, the St. Louis-San Francisco Railway Company, because of derailment causing damage to bridge across Kiamichi River near Hugo, Oklahoma, is unable to transport traffic routed over its line.

It is ordered, That:

(a) Rerouting traffic: The St. Louis-San Francisco Railway Company, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of

routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

- (e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic: divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with the pertinent authority conferred upon it by the Interstate Commerce Act.
- (f) Effective date: This order shall become effective at 9:00 a.m., January 8,
- (g) Expiration date: This order shall expire at 11:59 p.m., January 22, 1960, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 8, 1960.

> INTERSTATE COMMERCE COMMISSION, CHARLES W. TAYLOR, Agent.

[F.R. Doc. 60-385; Filed, Jan. 14, 1960; 8:49 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY, 12, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

LONG-AND-SHORT HAUL

FSA No. 35947: Flooring from, to, and between points in southwestern territory. Filed by Southwestern Freight Bureau, Agent (No. B-7714), for interested rail carriers. Rates on flooring or flooring blocks or squares, as described in the application, in carloads between points in southwestern territory, also between points in southwestern territory, on the one hand, and Mississippi River crossings, points in Kansas and Missouri, and points taking the same rates, on the other.

Grounds for relief: Short-line distance formula, grouping, and truck competition.

Tariffs: Supplement 25 to Southwestern Freight Bureau tariff I.C.C. 4330. Supplement 25 to Southwestern Freight Bureau tariff I.C.C. 4331.

FSA No. 35948: Asphalt and related articles from southwestern to WTL territory. Filed by Southwestern Freight Bureau, Agent (No. B-7712), for interested rail carriers. Rates on asphalt (asphaltum), natural, by-product or petroleum (other than paint, stain or varnish), petroleum road oil and petroleum wax tailings, in tank-car loads from points in southwestern territory, including Kansas to points in western trunk line territory.

Grounds for relief: Truck competition. Tariff: Supplement 113 to Southwestern Freight Bureau Tariff I.C.C. 4279.

FSA No. 35949: Asphalt from, to, and between points in WTL and IFA territories. Filed by Western Trunk Line Committee, Agent (No. A-2103), for interested rail carriers. Rates on asphalt (asphaltum), natural by-product of petroleum (other than paint, stain or varnish), in tank-car loads from, to and between points in western trunk line and Illinois Freight Association terri-

Grounds for relief: Market competition with southwestern producers.

Tariffs: Supplement 54 to Western Trunk Line Committee tariff I.C.C. A-4240 and 10 other schedules named in the application.

FSA No. 35950: Iron and steel articles-Bethlehem, Pa., to Sparrows Point, Md. Filed by O. E. Schutz, Agent (ER No. 2527), for interested rail carriers. Rates on ingot mold Stools and fabricated structural steel, in carloads, in multiple car lots from Bethlehem, Pa. to Sparrows Point, Md.

Grounds for relief: Private motortruck competition.

Tariff: Reading Company tariff I.C.C. 2413.

By the Commission.

[SEAL]

HAROLD D. McCoy, Secretary.

[F.R. Doc. 60-384; Filed, Jan. 14, 1960; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property [Vesting Order SA-280]

FERNANDO EMBER

In re: Property indirectly owned by [F.R. Doc. 60-386; Filed, Jan. 14, 1960; Fernando Ember; F-34-1707.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F.R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F.R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows:

That certain debt or other obligation of The Chase Manhattan Bank, 18 Pine Street, New York 15, New York, in the sum of \$115.22 arising out of a blocked account maintained by said bank in thename of "Amsterdamsche Bank N.V.. Amsterdam, blocked account, subaccount Fernando Ember, Budapest" together with any and all rights to demand, enforce and collect the same.

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was indirectly owned by Fernando Ember, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. "Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D.C., on January 11, 1960.

For the Attorney General.

DALLAS S. TOWNSEND, [SEAL] Assistant Attorney General, Director, Office of Alien Property.

8:49 a.m.]

FEDERAL REGISTER

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